

September 9, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 1: Purpose, Adoption and Amendment of Regulations; Personnel Policies

1-1-1. State human resource program, responsibilities, regulations, and guidelines.

(a) The Kansas civil service act shall be administered by the director to ~~provide~~ establish a complete human resource program that is ~~both effective and efficient~~ provides an effective, diverse, responsible, and quality workforce. ~~To provide an effective, responsible and quality workforce, regulations and guidelines which address the following shall be centrally maintained by the director:~~

- ~~(1) workforce planning and control;~~
- ~~(2) classification;~~
- ~~(3) compensation;~~
- ~~(4) recruiting and staffing;~~
- ~~(5) probationary periods;~~
- ~~(6) performance reviews;~~
- ~~(7) training and career development;~~
- ~~(8) hours and leaves;~~
- ~~(9) employee management relations;~~
- ~~(10) guidance and discipline;~~
- ~~(11) terminations;~~
- ~~(12) records, reports and research;~~
- ~~(13) layoffs;~~

~~(14) employee awards;~~

~~(15) quality management;~~

~~(16) employee benefits;~~

~~(17) equal employment opportunity; and~~

~~(18) other pertinent human resource issues as determined by the director. These~~ The
regulations in articles 1 through 14 and any associated guidelines shall apply only to classified
employees unless otherwise specifically stated.

(b) The central personnel office for the state as one employer shall be the division of
personnel services. ~~Agency assistance, as well as direction and review of agency human
resource programs shall be provided by the division.~~

(c) The statewide human resource program shall be managed by the director in
partnership with the human resource directors and staff of other state agencies. Agencies shall
be provided with opportunities to share in the responsibility of developing regulations and
implementing the resulting programs. ~~Any~~ Each human resource duty ~~which~~ that is delegated to
an ~~agency~~ appointing authority by the director shall be the responsibility of the ~~delegated agency~~
appointing authority. ~~and The agency appointing authority shall comply with statewide
personnel regulations and statutes. Each human resource program delegated to an agency shall
be monitored by the director.~~

(d) The human resource regulations and bulletins shall be ~~provided~~ made available to
each agency by the director.

(e) Each agency shall make available for inspection all human resource regulations and
bulletins to all employees in ~~an area which~~ a manner that is both known to employees and
available at all times.

(f) Standards of health and safety in state agencies and a comprehensive health and safety program for the state service shall be established by the director, in cooperation with appropriate agency administrators.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1995~~ 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended May 31, 1996; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 2: Definitions

1-2-9. Appointing authority. (a) “Appointing authority” means a person or group of persons empowered by the constitution, by statute, or by lawfully delegated authority to make human resource decisions that affect state service, including designees of the appointing authority as provided in subsection (b).

(b) Any appointing authority may select an employee or group of employees to act as the designee of the appointing authority to make specified human resource decisions that affect state service.

(c) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.
(Authorized by K.S.A. ~~1994~~ 2004 Supp. 75-3747; implementing K.S.A. ~~1994 Supp. 75-2943~~, as amended by ~~1995 SB 175, § 8~~ 75-3746; effective May 1, 1979; amended Dec. 17, 1995; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 2: Definitions

1-2-25. Compensatory time credits. ~~“Compensatory time” credits are: (a) leave credits given to employees who work on holidays and who are compensated for such holiday work by receiving time off at a later date, at the rate of one and a half hours off for one hour worked; or~~

~~(b) means~~ time off, in lieu of monetary payment for overtime worked, given pursuant to K.A.R. 1-5-24. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1987~~ 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended, T-86-17, June 17, 1985; amended, T-86-36, Dec. 11, 1985; amended May 1, 1986; amended, T-87-11, May 1, 1986; amended May 1, 1987; amended, T-89-1, May 1, 1988; amended Oct. 1, 1988; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed New Regulation
Article 2: Definitions**

1-2-25a. Holiday compensatory time. “Holiday compensatory time” means leave given in accordance with K.A.R. 1-9-2 to employees who work on holidays and who are compensated for this holiday work by receiving time off at a later date, at the rate of one and a half hours off for one hour worked. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective P- _____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 2: Definitions**

1-2-30. This regulation shall be revoked on and after June 5, 2005. (Authorized by and implementing K.S.A. 1998 Supp. 75-4362 and K.S.A. 75-4363; effective April 13, 1992; amended July 26, 1993; amended Oct. 1, 1999; revoked P-_____.)

June 17, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 2: Definitions**

1-2-30. Designated position. ~~“Designated position” means any position in the classified service that is subject to the drug screening program established under K.S.A. 75-4362 or K.S.A. 75-4363, and amendments thereto. A designated position shall be limited to the following types of positions:~~

~~(a) a “safety sensitive” position, which means any of the following positions:~~

~~(1) A state law enforcement officer authorized to carry a firearm;~~

~~(2) a state correctional officer; or~~

~~(3) any state employee at a juvenile correctional facility; and~~

~~(b) any position in classes designated by the director that are used exclusively at the department of social and rehabilitation services’ mental health and retardation facilities listed in K.S.A. 76-12a01(b), and amendments thereto. (Authorized by and implementing K.S.A. 1998 Supp. 75-4362 and K.S.A. 75-4363; effective April 13, 1992; amended July 26, 1993; amended Oct. 1, 1999; revoked P-_____.)~~

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 2: Definitions

1-2-31. Demotion. “Demotion” means the ~~involuntary movement for disciplinary~~
~~purposes under K.A.R. 1-10-6 or the voluntary movement~~ of an employee from a position in one
class to a position in another class having a lower pay grade, either on an involuntary basis for
disciplinary purposes or on a voluntary basis. This regulation shall be effective on and after June
5, 2005. (Authorized by K.S.A. ~~2001~~ 2004 Supp. 75-3747; implementing K.S.A. ~~2001~~ 2004
Supp. 75-2949, K.S.A. 75-2949d, 75-3707, and 75-3746; effective May 1, 1979; amended Dec.
17, 1995; amended June 7, 2002; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed New Regulation
Article 2: Definitions**

1-2-43a. Incumbent. “Incumbent” means the employee occupying a particular position.

This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective P-

_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 2: Definitions**

1-2-44. In pay status. “In pay status” means time worked, and time off work for which the employee is compensated because of a holiday, the use of any kind of leave with pay, or the use of compensatory time ~~credits~~ or holiday compensatory time. This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005. (Authorized by K.S.A. ~~1994~~ 2004 Supp. 75-3747; implementing K.S.A. 75-3707, 75-3746, and 75-5507; effective Dec. 17, 1995; amended P-_____.)

September 30, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 2: Definitions

1-2-46. Length of service. (a) "Length of service" shall mean total time worked in the classified service or unclassified service, including time spent on an appointment to a position pursuant to K.S.A. 75-2935(1)(i), and amendments thereto. Length of service shall exclude the following:

- (1) Time worked as a temporary employee;
 - (2) time worked as a student employed by any board of regents institution;
 - (3) time worked as a resident worker in ~~any social and rehabilitation services~~ an institution of mental health, as defined in K.S.A. 76-12a01 and amendments thereto, or a state veteran's home operated by the Kansas commission on veteran's affairs; or and
 - (4) time worked as an inmate.
- (b) Time spent on military leave, ~~or and~~ time off while receiving workers compensation wage replacement for loss of work time; shall be considered to be time worked in the classified or unclassified service. Time on leave while receiving workers compensation wage replacement for a disability attributable to state employment before May 1, 1983, shall not be credited.
- (c) Within educational institutions under the control and supervision of the state board of regents or the state board of education, time spent on leave of absence, if imposed by the ~~employer~~ educational institution based on employment customs arising from an academic or school calendar requiring less than a full calendar year of service, shall be considered to be time

worked in the classified service. However, length of service based on this leave of absence shall not be transferable to other state agencies. For the purposes of layoff, employees of these institutions shall be credited only for actual time worked.

(d)(1) Length of service for computing vacation and sick leave accrual rates and for layoff or compensation purposes shall not be recalculated using prior versions of this regulation for employees who have no break in service.

(2) Length of service for determining vacation and sick leave accrual rates and for layoff or compensation purposes for an individual returning to state service shall be the amount of length of service on record ~~as of~~ on December 17, 1995, or on the date the individual left state service, whichever date is later.

(e) Authorized leave without pay over 30 consecutive days shall not count toward length of service. However, authorized leave without pay for 30 consecutive days or less shall not be considered a break in service.

(f) Increased rates of vacation leave earnings based on length of service shall not be retroactive.

(g) For purposes of leave accrual, layoff, and longevity bonus pay, the length of service of any retiree returning to state service shall be reduced to zero and calculated on the same basis as that for a new hire.

(h) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-87-52, Dec. 19, 1986; amended May 1, 1987; amended Dec. 27, 1993; amended Dec. 17, 1995; amended Sept. 18, 1998; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 2: Definitions

1-2-74. Administrative leave. “Administrative leave” means leave with pay ~~authorized by the appointing authority for an emergency or other situation that creates dangerous or unsafe work conditions or for other circumstances that necessitate the closing of an office or building.~~ The appointing authority shall notify the director of personnel services of any situation for which administrative leave is authorized. This notice shall be in writing and shall specify the facilities affected, and the dates and the starting and ending times of the authorized administrative leave that is approved by the appointing authority for an employee pending the outcome of an investigation of that employee under K.A.R. 1-9-19 or for other situations in which the appointing authority determines that administrative leave with pay is in the best interests of the state. Administrative leave shall not be used as a reward. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective Oct. 1, 1999; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 2: Definitions**

1-2-84a. This regulation shall be revoked on and after June 5, 2005. (Authorized by
K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999; revoked P-
_____.)

June 17, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 2: Definitions**

1-2-84a. ~~Lead worker.~~ ~~“Lead worker” means an employee in a position that is assigned the ongoing responsibilities of planning and coordinating the work of co-workers and guiding and training them while performing the same kind and level of work a majority of the time.~~

(Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999; revoked

P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 2: Definitions**

1-2-84b. This regulation shall be revoked on and after June 5, 2005. (Authorized by
K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999; revoked P-
_____.)

June 17, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 2: Definitions**

1-2-84b. Manager. ~~“Manager” means an employee who performs the following functions:~~

- ~~(a) Integrates and coordinates the activities of several organizational functions or programs;~~
- ~~(b) measures and evaluates the effectiveness of those functions or programs; and~~
- ~~(c) initiates changes through subordinate supervisors or through the management of projects or programs to achieve the predetermined goals and objectives. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999; revoked P-_____.)~~

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 2: Definitions

1-2-97. Unclassified service. “Unclassified service” means those positions specifically designated by law as unclassified ~~by K.S.A. 75-2935, as amended, or other sections of the statutes.~~ This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 2004 Supp. 75-2935, as amended by 2005 SB 74, § 3, and K.S.A. 75-3746; effective May 1, 1979; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Revoked Regulation
Article 3: Workforce Planning and Control

1-3-2. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 1994 Supp. 75-3747; implementing K.S.A. 75-2956a; effective May 1, 1979; amended Dec. 17, 1995; revoked P- _____.)

June 17, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 3: Workforce Planning and Control**

1-3-2. ~~Reciprocal agreements with other public agencies; cooperation with other personnel agencies.~~ Reciprocal agreements may be entered into by the secretary of administration with any public agency or body, upon such terms as may be agreed upon, for the use of equipment, materials, facilities, and services, for purposes deemed of benefit to the state personnel system. Cooperation between the director, on behalf of the secretary of administration, and other governmental agencies charged with public personnel administration may involve areawide pay and salary surveys, recruitment and assessment efforts, use of common eligible pools, cooperative training efforts, and the interchange of personnel.

(Authorized by K.S.A. 1994 Supp. 75-3747, implementing K.S.A. 75-2956a; effective May 1, 1979; amended Dec. 17, 1995; revoked P- _____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 4: Classification

1-4-2. Position management. ~~(a) Managers and supervisors~~ Each supervisor shall structure each position ~~so as to~~ promote efficient use of the ~~work force~~ workforce and to fulfill current and future requirements, and shall accurately describe in writing the duties of the position. The supervisor ~~or manager~~ shall review each subordinate position ~~under the manager's supervision~~ when the responsibilities of the position change, each time the position becomes vacant, and ~~at least annually in conjunction with the performance review of the employee in the position if no vacancy occurs. This position review shall be certified in a manner to be prescribed by the director~~ when other pertinent circumstances indicate a review is appropriate.

(b) Each ~~agency~~ appointing authority shall maintain a system of position identification and control, indicating the organizational unit, location, duties, and work hours and shifts of each established position, which shall be made available to the director upon request.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1995~~ 75-2950 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. ~~1995 Supp. 75-2938, 75-2950, and 75-3746~~; effective May 1, 1979; amended May 1, 1981; amended May 31, 1996; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 4: Classification**

1-4-3. Position description. Each supervisor, in cooperation with each employee under his or her immediate supervision, ~~appointing authority shall prepare~~ ensure that a current position description is prepared and maintained for each position under his or her immediate supervision, in the agency and that each position description accurately describes specifying the duties and responsibilities of the position. Forms for this purpose shall be prescribed by the director. The position description shall be signed by the supervisor, the employee, and the ~~personnel officer~~ agency's human resource director or other personnel human resource official. ~~The appointing authority or his or her authorized agent shall review the description and cooperate with the employee and the supervisor in making revisions if revisions are needed. When the description has been satisfactorily and correctly written,~~ The appointing authority ~~or his or her authorized agent shall certify that the description is correct and shall transmit~~ make the position description available to the division of personnel services ~~or, if the agency has authority to allocate the position, to the official who is authorized to allocate the position upon request.~~ This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2950 and K.S.A 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2950, and 75-3746; effective May 1, 1979; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 4: Classification

1-4-5. Position allocation; delegation to appointing authority. (a) ~~When a new position is created in the classified service,~~ The appointing authority shall notify the director ~~in the manner as prescribed by the director~~ when a new position is created in the classified service. The notice shall include a statement of the duties and responsibilities ~~which~~ that are to be assigned to the position. ~~The director shall then allocate the position~~ shall then be allocated by the director. Except as otherwise provided in the act or in these regulations, no person shall be appointed to, or employed in, a classified position until the position has been allocated to an established class; or until the classification plan has been amended to provide for the new position.

(b) ~~The secretary of administration may delegate to an appointing authority the authority to allocate positions in his or her~~ an agency may be delegated by the secretary of administration to the appointing authority of that agency. The delegation shall specify the classes, or group of classes, for which the authority is granted; and the conditions under which the delegation is made. ~~The secretary may modify or withdraw~~ Any delegation of allocation authority may be modified or withdrawn by the secretary to the extent provided by K.S.A. 75-2938(c), and amendments thereto.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1980~~ 2004 Supp. 75-3747; implementing K.S.A. ~~1980~~ Supp. 75-2938 and 75-3746; effective May 1, 1979; amended May 1, 1981; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 4: Classification

1-4-7. Position reallocation. (a)(1) Upon the initiative of the director or the request of an ~~employee~~ incumbent or appointing authority, a position shall be reviewed whenever either of the following conditions is met:

(A) The organizational structure of an agency or the duties of a position are significantly changed; ~~or,~~

(B) For any ~~other~~ reason other than those specified in paragraph (a)(1)(A), a position appears to be allocated incorrectly.

(2) After conferring with the appointing authority, the position under review may be reallocated by the director to a different class, or the existing allocation may be retained. During the review, other positions may be reviewed and reallocated as required.

(b) Reallocation shall not be used ~~to~~ for either of the following purposes:

(1) To avoid the provisions of the regulations pertaining to layoffs, demotions, promotions, and dismissals; or

(2) to increase or decrease the pay of an employee in circumvention of the regulations pertaining to pay.

(c) Unless otherwise prescribed by the secretary of administration, an appointing authority who has been granted authority to allocate positions shall have authority to reallocate the same positions.

(d) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.

(Authorized by K.S.A. ~~1994~~ 2004 Supp. 75-3747; implementing K.S.A. 75-2938, as amended by ~~1995 SB 175, § 4~~ and 75-3746; effective May 1, 1979; amended May 1, 1981; amended Dec. 17, 1995; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 4: Classification**

1-4-8. Effect of position reallocation on incumbent. (a)(1) If a position that is reallocated is filled on the date of reallocation by an employee with permanent or probationary status; and if the incumbent wishes to remain in the position, the appointing authority shall, within the current pay period, appoint the incumbent to the class to which the position was reallocated.

(2) If the class specification for the reallocated position requires that the person appointed to any position in that class possess a special license or certificate and the incumbent does not possess such a license or certificate, the incumbent shall not be appointed to the class to which the position was reallocated. If the reallocation of any position to a class requires that the employee possess a special license or certificate; and if the incumbent does not possess that license or certificate, the reallocation may be made only after the reallocation has been approved in writing by the director.

(b) Except as provided in paragraph (a)(2), if the incumbent had permanent status ~~in the class to which the position was formerly allocated~~ at the time the position is reallocated, the appointing authority shall appoint the incumbent to the class to which the position was reallocated with permanent status ~~or probationary status~~. ~~If the incumbent is appointed with probationary status,~~ but may require the incumbent to serve a probationary period in accordance with the provisions of K.A.R. 1-7-4(b). Notice of ~~a~~ the probationary period shall be given to the

employee in writing, ~~and the length of that probationary period shall be the same as that provided for promotional appointments in K.A.R. 1-7-4(b).~~

(c) If the reallocation of ~~the~~ a position of the permanent occupied by an employee with permanent status is to a lower class, the appointing authority shall give the employee a written statement of the reason the position is being reallocated to a lower class.

(d) A reallocation shall not be retroactive unless authorized by the director, in writing, based on the director's determination that failure to do so would create a manifest injustice or undue hardship on the employee whose position is being reallocated. Each determination to authorize ~~retroactivity~~ a retroactive reallocation shall be made by the director on a case-by-case basis ~~and shall be based on the circumstances surrounding the request for a retroactive reallocation.~~ The length of time for which the reallocation will be retroactive shall be determined by the director. ~~The authorization from the director shall be in writing.~~

(e) If the incumbent ~~had probationary status~~ was serving a probationary period in the former class, the time served on probation in the former class shall apply towards the probationary period in the new class. However, ~~if the employee had probationary status if the incumbent had permanent status, but was serving a probationary period~~ as a result of a promotional appointment to the former class, the appointing authority may start the employee on a new probationary period. The new probationary period shall begin on the date of the appointment to the new class, and the length of the probationary period shall be the same as that provided for promotional appointments in K.A.R. 1-7-4(b).

(f)(1) If the incumbent does not wish to remain in the position upon its reallocation ~~or if the incumbent does not qualify for the position under paragraph (a)(2), the employee incumbent shall be separated from the position by resignation, layoff, transfer, or other action as~~

~~appropriate. If the incumbent does not~~ submit a written notice to the appointing authority within 14 calendar days of the effective date of the appointment, ~~requesting to terminate from the position on which the incumbent is given a written notice of the pending reallocation.~~ If the incumbent does not submit a written notice within that 14-day period, the employee incumbent shall be presumed to desire to remain in the position as reallocated.

(2) If the incumbent has submitted the written notice as provided under paragraph (f)(1) or does not qualify for the position under paragraph (a)(2), the appointing authority shall take one of the following actions in accordance with these regulations:

(A) Lay off the incumbent if the incumbent has permanent status;

(B) terminate the incumbent if the incumbent has probationary status; or

(C) appoint the incumbent to a different position on the basis of a promotion, transfer, or voluntary demotion.

(g) Different qualifications may be established by the director for those positions in a class that are subject to federal laws and regulations.

(h) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2946 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, and 75-2946, 75-3707, and 75-3746; effective May 1, 1979; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended Oct. 1, 1999; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-8. Beginning pay. (a) Except as specified in subsection (b), each new hire and each rehire not based on a reemployment or reinstatement shall be paid at the minimum step of the pay grade for the class.

(b) New hires and rehires not based on a reemployment or a reinstatement may be paid at higher steps in the pay grade only under the following circumstances:

(1) If an agency has an eligible candidate with exceptional qualifications directly related to the vacant position and the agency cannot employ the person at the minimum step, the appointing authority may approve beginning pay for the individual at a higher step in the pay grade. Exceptional qualifications shall be based on the candidate's education, training, experience, skills, and other job-related qualifications.

(2) If there is a lack of candidates for a class of positions available for employment at the minimum step, one or more appointing authorities may request that the director establish some higher step in the pay grade as the beginning pay in the class for new hires and for rehires not based on a reemployment or a reinstatement ~~in the class~~. Authorization for the higher beginning pay may be given to a designated agency or agencies, to all agencies, or for a particular geographical area. ~~Unless an earlier expiration date is specified, the authorization shall expire on the last day of the last payroll period chargeable to the fiscal year during which the authorization was granted.~~ This authorization shall remain in place until cancelled by the director. If the

authorization has remained in place for three years for reasons other than a geographic basis, a compensation study shall be conducted by the director.

(A) When an ~~agency~~ appointing authority uses an authorization granted under paragraph (b)(2), the ~~agency~~ appointing authority shall, except as provided below, raise the pay of each incumbent in the class who is being paid at a lower step to the higher beginning pay.

(B) If the authorization granted under paragraph (b)(2) is only for a particular geographical area, the ~~agency~~ appointing authority shall not raise the pay of incumbents in other geographical areas.

(C) Each ~~agency that~~ appointing authority whose agency has positions in the class or geographical area authorized for a higher beginning pay shall be notified of the authorization by the director. Each increase to a higher step given to an incumbent because the agency uses a higher beginning pay under paragraph (b)(2) shall be effective at the beginning of the next pay period. The length of time that the incumbent has spent on the previous step of the pay grade shall count toward the time-on-step requirement for the new step.

(3) ~~Any~~ Any appointing authority may pay a temporary employee at a higher step in the pay grade if the candidate has exceptional qualifications directly related to the position or has former permanent status in the same class or another class at the same or higher pay grade.

(c) In a manner prescribed by the director, the appointing authority shall report to the director each hire above the minimum step made by the appointing authority as provided in this regulation.

(d) The beginning pay for any unclassified employee hired into a position in the classified service shall be determined in accordance with the provisions of this regulation.

(e) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2950 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2938a, 75-2950, 75-3707, and ~~K.S.A.~~ 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 17, 1995; amended Oct. 24, 1997; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-9. Pay of temporary employee. (a) Except as provided in subsection (b), the pay of each temporary employee shall be the minimum step of the pay grade to which the classification is assigned.

(b) At the option of the appointing authority, any temporary employee may be hired at a step higher than the minimum step as provided in K.A.R. 1-5-8.

(c) ~~Nothing in this regulation shall prevent the appointing authority from hiring the candidate at a step in the pay grade lower than that permitted by subsection (b).~~

~~(d)~~ No person hired on a temporary basis shall be eligible for any step increase during the period of temporary employment.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2945 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938 ~~and K.S.A. 75-2945~~, and 75-3707; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995; amended Sept. 18, 1998; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-14. Pay of employee upon transfer. ~~(a)(1) An~~ Any employee who is transferred may be paid ~~at~~ on the same step as the step on which the employee was paid before the transfer.

(2) An ~~Any~~ employee may transfer to a lower step within the pay grade, if this transfer is agreed upon by the employee and the appointing authority.

(3) If an employee is transferred to a trainee class with an abbreviated pay grade in lieu of layoff, the employee may be paid at the employee's present rate of pay if the rate of pay does not exceed the maximum pay rate for the pay grade to which the trainee class is assigned.

(b) For each employee whose pay is determined under subsection (a), the length of time that the incumbent employee has spent on the previous step shall count toward the time-on-step requirement for computing the employee's pay increase date. If an employee is transferred to a trainee class with an abbreviated pay grade in lieu of layoff, the employee may be paid at the employee's present rate of pay if the rate of pay does not exceed the maximum pay rate for the pay grade to which the trainee class is assigned.

(c) If an employee transfers from one position to another within the same agency, the appointing authority may pay the employee at a higher step on the pay grade than the step on which the employee was paid before the transfer if the appointing authority determines that the increase is in the best interests of the state. Nothing in this regulation shall authorize pay above the maximum step of the pay grade. The employee's pay increase date shall be governed by the time-on-step requirement of the new step.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938 and 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1987; amended Dec. 17, 1995; amended Sept. 18, 1998; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-15. Pay of employee upon demotion. (a) Each employee who is demoted, in accordance with applicable regulations, whether voluntarily or for disciplinary reasons, shall be paid at the same step of the pay grade for the lower class as the step on which the employee was being paid in the higher class, or at any higher step ~~as long as there is~~ that results in a decrease in the rate of compensation, except as specified in subsection (b).

(b)(1) Any employee accepting a voluntary demotion may be paid at a step of the new pay grade that does not result in a decrease in rate ~~under any of the following conditions:~~

- ~~(A) The position must be filled expeditiously for effective government.~~
- ~~(B) The employee has exceptional qualifications for the new position.~~
- ~~(C) if the action is in the best interest of the state service, except that the employee's rate of pay shall:~~
- ~~(D) The action is in lieu of a layoff.~~
- ~~(E) The employee is returning to work in accordance with the state "return to work" program.~~
- ~~(F) The employee is accepting an accommodation in accordance with the Americans with disabilities act, 42 U.S.C., § 12101 et. seq., and amendments thereto.~~
- ~~(G) The employee is demoted to a trainee class with an abbreviated pay grade in lieu of layoff. In this case, the employee may be paid at the employee's present rate of pay if the rate of~~

pay does not exceed the maximum pay rate for the new pay grade to which the trainee class is assigned.

~~(2) The voluntary demotion shall not be within the same organizational unit as defined in the agency's layoff plan, except in the case of any of the following:~~

~~(A) A voluntary demotion taken in lieu of a layoff;~~

~~(B) return to work in accordance with the state "return to work" program; or~~

~~(C) an accommodation in accordance with the Americans with disabilities act, 42 U.S.C., § 12101 et. seq., and any amendments thereto.~~

(c) Nothing in this regulation shall prevent a demotion being made to a step in the pay grade lower than permitted by this regulation, if agreed upon in writing by the employee and appointing authority. However, a promotional if an employee who with permanent status is promoted and, subsequently, is demoted pursuant to K.S.A. 75-2944, as amended, and amendments thereto, the employee shall be paid on a step that is no lower than the same step of the pay grade for the lower class as the step that the employee was on immediately before the promotion.

(d) An employee who takes a voluntary demotion may also receive a pay step increase on the same date if the employee is eligible for this increase.

(e) The pay increase date for any employee demoted for disciplinary reasons shall be governed by the time-on-step requirement of the step to which demoted. The pay increase date for any employee who takes a voluntary demotion shall be unchanged if the employee did not receive a pay step increase on the date of the demotion.

~~(e) An employee who takes a voluntary demotion may also receive a pay step increase on the same date if eligible for this increase.~~

(f) The provisions of K.A.R. 1-5-10, rather than this regulation, shall apply when a former permanent employee who was separated from the service for more than 30 days is reinstated to a class with a lower pay grade.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. ~~75-2938~~ 75-3707 and 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended March 20, 1989; amended Jan. 6, 1992; amended Dec. 27, 1993; amended Nov. 21, 1994; amended Dec. 17, 1995; amended May 31, 1996; amended Sept. 18, 1998; amended P-_____.)

September 30, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-19c. Effect of pay grade changes on pay. (a) If the governor has assigned a class of positions to a higher pay grade, ~~each employee in that class shall be placed on the step of the higher pay grade that is the same rate, in dollar amount, as the current rate paid to the employee.~~ the appointing authority shall pay each employee in the class on one of the following steps:

(1) The same step of the pay grade for the new class as the step on which the employee was being paid in the lower class;

(2) any lower step of the pay grade for the new class that gives the employee an increase in pay; or

(3) the step on the pay grade of the new class that provides the same rate, in dollar amount, as the current rate paid to the employee.

(b) ~~If the employee is being paid a dollar amount below the minimum step of the higher pay grade, an increase shall be made to the minimum step.~~

~~(c) In all cases, the length of time that the employee has spent on the step of the previous pay grade shall count toward the time on step requirement for computing the next pay increase date. If the number of months accumulated is greater than the number of months required for a step increase, the employee shall be granted one or more step increases, and any unused months shall count toward the next pay increase.~~ If the governor has assigned a class of positions to a lower pay grade, each employee in the class shall continue to be paid at the same rate, in dollar

amount, as the rate paid to the employee immediately before the assignment to the new pay grade.

(c)(1) For those employees who receive an increase in pay under either paragraph (a)(1) or (a)(2), the pay increase date shall be governed by the time-on-step requirement of the new step.

(2) For those employees who did not receive an increase in pay under either paragraph (a)(3) or subsection (b), the length of time that the employee has spent on the step of the previous pay grade shall count toward the time-on-step requirement for computing the pay increase date. If the employee's current salary is above the new pay grade, the employee shall not receive a salary increase until the employee's rate of pay is less than the highest step of the new pay grade.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, ~~and K.S.A. 75-2938a~~, and 75-3707;
effective May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995; amended Oct. 24, 1997; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-20. Individual pay decreases. (a)(1) The appointing authority may reduce the pay of any employee one step ~~by reason~~ because of a less than satisfactory rating according to a the employee's current performance review. Such a decrease shall not result in a pay rate below the minimum step of the pay grade. Approval of the director shall be required for more than one of these reductions in any 12-month period.

(2)(b) Following a pay decrease, the employee's pay increase date shall be governed by the time-on-step requirement of the new step, except that the pay may be increased to the step from which it was reduced in any later payroll period, if the employee's subsequent rating is satisfactory.

~~(b) If the governor has assigned a class of positions to a lower pay grade, each employee in the class shall continue to be paid at the same pay rate, in dollar amount, as the current rate paid to the employee. The length of time the employee has spent on the step of the previous pay grade shall count toward the time-on-step requirement for computing the pay increase date. If the employee's current salary is above the new pay grade, the employee shall not receive a salary increase until the time that an increase may be made within the new pay grade.~~

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, K.S.A. 75-2938a, 75-3707 and K.S.A. 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1982; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987;

amended Dec. 17, 1995; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended

P-_____.)

September 28, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-24. Overtime. (a) Except as otherwise provided by ~~the statutes~~ statute or these regulations, employees of the state who are eligible to receive overtime compensation under the fair labor standards act of 1938 (FLSA), as amended, shall be compensated for overtime as provided in that act. State employees in agricultural positions shall also be eligible for overtime compensation. The final determination ~~as to~~ of eligibility to receive overtime as specified in this subsection shall be made by the director for all classified employees and all unclassified employees whose pay is subject to approval by the governor under K.S.A. 75-2935b and amendments thereto.

(b)(1) The rate at which any eligible employee is to be compensated for overtime worked shall be one and a half times the employee's regular rate of pay. This rate shall not include premium pay for holidays worked or any call-in and callback compensation paid for hours not actually worked.

(2) All employees who are eligible for overtime compensation and who were paid for overtime during the 12 months preceding the receipt of a longevity bonus payment or a quality award bonus payment shall receive an additional overtime payment ~~to~~, which shall be calculated as follows:

(A) Divide the bonus pay by total hours worked in the preceding 12 months to obtain the increase in the regular rate; and

(B) multiply the increase in the regular rate by the number of overtime hours paid in the preceding 12 months; then, multiply that product by one-half. The result shall be the employee's additional overtime pay.

No additional overtime pay shall be due for any overtime hours worked during the preceding 12 months for which compensatory time was given under subsection (e).

(c) Each appointing authority shall be responsible for control of overtime in the agency. Overtime, to the extent possible, shall be authorized in advance by the responsible supervisor.

(d)(1) Except as provided in paragraph (d)(3), in determining whether an employee in a position or class determined to be eligible for overtime pay has worked any overtime in a given workweek or work period, only time actually worked shall be considered.

(2) The number of hours of paid leave used in an employee's workweek or work period that, when added to the number of hours actually worked in that employee's workweek or work period, exceeds the applicable overtime threshold shall be compensated in the following manner:

(A) Given as equivalent time off as specified in subsection (f); or

(B) paid at the hourly rate of pay.

(3) ~~Under~~ If all of the following conditions are met, an official state holiday may be counted as time worked for employees in positions that have been determined to be eligible for overtime compensation:

(A) The employee is asked to report to work in order to respond to a building, highway, ~~or~~ public safety, or other emergency, as determined by the appointing authority;

(B) This work is performed outside the employee's normal work schedule for the workweek or work period that includes the official state holiday; ~~and~~

(C) The appointing authority authorizes inclusion of that official state holiday in calculating time worked by the employee.

The appointing authority shall ~~notify~~ report to the director, in writing, of the nature of the emergency and the name and position number of each employee for whom the state holiday will be counted as time worked.

(e)(1)(A) In lieu of paying an eligible employee at the time-and-a-half rate for overtime worked, an ~~agency~~ appointing authority may elect to compensate an employee for overtime worked by granting compensatory time off, at the rate of one and a half hours off for each hour of overtime worked, at some time after the workweek or work period in which the overtime was worked if the conditions of paragraph (e)(1)(B) are met.

(B) ~~A state agency~~ Any appointing authority may elect to compensate an employee for overtime worked by granting compensatory time off only if an agreement or understanding has been reached before the performance of the work. Except as provided in 29 C.F.R. § 553.23(b), the agreement or understanding concerning compensatory time off shall be between the ~~state agency~~ appointing authority and the individual employee, and a record of its existence shall be maintained for each employee. The agreement or understanding to provide compensatory time off may take the form of an express condition of employment if the employee knowingly and voluntarily agrees to it as a condition of employment and if the employee is informed that the compensatory time earned may be preserved, used, or cashed out in a manner consistent with the provisions of this regulation. The appointing authority of any ~~state~~ agency that had a regular practice of awarding compensatory time off in lieu of overtime pay before April 15, 1986 shall be deemed to have reached an agreement or understanding with any employee who has been

continuously employed by that agency in one or more positions that are eligible for overtime from a date before April 15, 1986.

(2)(A) An eligible employee shall not accrue more than ~~120~~ 240 hours of compensatory time for overtime hours worked, ~~except as provided in paragraph (c)(2)(B).~~ Each eligible employee who has accrued ~~120~~ 240 hours of compensatory time off shall, for any additional overtime hours of work, be compensated with overtime pay.

~~(B) Upon written request by an appointing authority, a higher maximum accumulation of compensatory time may be approved by the secretary of administration for a class or a group of eligible employees within that agency, but the maximum accumulation shall not exceed 240 hours. However, an appointing authority may establish a lower maximum accumulation for employees in that agency.~~

(3) If an eligible employee is paid for accrued compensatory time off, this compensation shall be paid at the regular rate earned by the employee at the time the employee receives the payment.

(4)(A) Except as provided in K.A.R. 1-9-14 (a), each eligible employee who has accrued compensatory time off authorized under this subsection shall, upon termination of employment or upon promotion, demotion, or transfer to another state agency, be paid for the unused compensatory time at a rate of compensation not less than the higher of either of the following rates:

- (i) The average regular rate received by the eligible employee during the last three years of the employee's employment; or
- (ii) the final regular rate received by the eligible employee.

(B) Any longevity or quality award bonus payments received during the last three years of employment shall be included in determining the average regular rate and the final regular rate specified in paragraph (e)(4)(A).

(5)(A) Each eligible employee who has accrued compensatory time off authorized under this subsection and who has requested the use of compensatory time shall be permitted by the appointing authority to use this time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the agency.

(B) Each employee who has accrued compensatory time and whose FLSA status is changed to exempt shall be granted the compensatory time off, paid for the entire amount, or provided a combination of both compensatory time off and pay, so that there is no remaining compensatory time balance before the employee's status changes to exempt.

(C) Each employee who has accrued compensatory time off under this subsection may be required by the appointing authority to use the compensatory time within a reasonable period after receiving notice of this requirement. The notice shall state the length of time in which a specified number of hours of compensatory time are to be used.

(f) When an employee who is eligible for overtime works additional time that could result in overtime hours, that employee's ~~agency~~ appointing authority may give the employee equivalent time off, on an hour-for-hour basis, in the workweek or work period in which the additional time is worked if any of the following conditions is met:

(1) The ~~agency~~ appointing authority notifies the employee of the change in the employee's normal work schedule for that workweek or work period at least five calendar days in advance of the day in which the employee's normal work schedule is first changed.

(2) The ~~agency~~ appointing authority has established a written policy stating that the employee may be required to take equivalent time off, on an hour-for-hour basis, in the workweek or work period in which additional time is worked.

(3) The employee requests or agrees to take equivalent time off during the workweek or work period in which additional time was worked, and the ~~agency~~ appointing authority determines that this arrangement is not detrimental to the operations of the agency.

In any case, the equivalent time off shall be taken at a time agreeable to the ~~agency~~ appointing authority during the workweek or work period in which the additional time is worked.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, K.S.A. 75-5507, and ~~K.S.A. 75-5537, as amended by L. 2000, ch. 112, § 2 75-5514~~; implementing K.S.A. 75-2938, 75-3707, 75-3746, 75-5508, K.S.A. 2004 Supp. 75-5537, as amended by L. 2000, ch. 112, § 2, and K.S.A. 75-5541; effective May 1, 1979; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-86-17, June 17, 1985; amended, T-86-36, Dec. 11, 1985; amended May 1, 1986; amended, T-87-11, May 1, 1986; amended May 1, 1987; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 27, 1994; amended Dec. 17, 1995; amended May 31, 1996, amended Sept. 1, 2000; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 5: Compensation**

1-5-30. Benefits for employees activated to military duty. (a) Each employee who is ordered to report for active military service upon the activation of the National Guard and reserve units by presidential order, or who volunteers for ~~such~~ this active duty, shall be eligible for the following benefits ~~defined below~~:

~~(a) Such an~~ (1) The employee shall continue to accrue length of service, but shall not accrue vacation or sick leave. Upon return to work, the employee's vacation leave accrual rate shall ~~increase~~ be increased to the appropriate level if the ~~employee's~~ length of service ~~has increased to~~ the employee accrued while on military leave qualifies the employee for a higher accrual rate.

~~(b)(2)~~ (2) A death benefit shall be payable ~~when such an~~ if the employee dies while on active military duty. The death benefit shall be in an amount equal to the amount provided by the group term life insurance through the Kansas public employees retirement system ~~which that~~ the employee would have received at the time of death if the employee had not commenced been on active duty. The employing state agency at the time the employee entered active duty shall pay the death benefit. The death benefit shall be paid to the employee's beneficiary or beneficiaries, as designated on forms approved by the director of personnel services. If no beneficiary has been designated, ~~it~~ the death benefit shall be paid to the estate of the employee. The provisions of this ~~subsection~~ paragraph shall be applicable to each state employee who meets the following conditions:

~~(1)(A)~~ Immediately ~~prior to~~ before entering active duty, was eligible for the insured death benefit provided under ~~Article 49 of Chapter 74 of the Kansas Statutes Annotated~~ K.S.A. 74-4901 et seq., and amendments thereto, and funded by the employing agency; and

~~(2)(B)~~ would not, at the time of death, be eligible for the death benefit described under paragraph ~~(1)(a)(2)(A)~~.

~~(e)(b)~~ This regulation shall not apply to federal active duty for training as stipulated in ~~K.A.R. 1-9-7b~~ purposes.

(c) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.
(Authorized by K.S.A. ~~1994~~ 75-3706 and K.S.A. 2004 Supp. 75-3747, ~~75-5514~~; implementing K.S.A. 75-3707 and 75-3746; effective, T-1-9-10-90, Sept. 10, 1990; effective Jan. 7, 1991; amended Jan. 6, 1992; amended Dec. 17, 1995; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 6: Recruiting and Staffing**

1-6-2. Recruitment. (a)(1) ~~Each agency shall submit to the director a job requisition for each vacancy to be filled.~~

~~(b)(1) For each classified vacancy to be filled, the appointing authority shall post a job requisition on the central notice of vacancy report administered by the director, except as provided in subsection (c) below, the appointing authority shall provide notice of each vacancy to be filled (b).~~

(A) ~~Notice shall be provided to~~ Each job requisition posted on the central notice of vacancy report shall be open to applications from employees within the agency that is posting the job requisition and from persons in the reemployment pool.

(B) The appointing authority may then determine whether recruitment will also be conducted among the following additional groups of individuals:

- (i) All state employees, ~~including~~ and persons eligible for reinstatement; or
- (ii) all state employees, persons eligible for reinstatement, and the general public.

(2) Notices of the vacancy shall be ~~distributed by the director~~ made available to all agency personnel offices. Appropriate and reasonable distribution within each agency shall be the responsibility of the ~~agency~~ appointing authority.

(3) The appointing authority, within guidelines established by the director, shall establish a period of time in which applications will be accepted for each vacancy.

~~(e)~~(b) Notices of a vacancy shall not be required ~~when filling~~ under any of the following conditions:

- (1) A temporary position; is to be filled.
- (2) ~~when~~ A position is to be filled by demotion or transfer; ~~when.~~
- (3) A position is to be reallocated; ~~when filling.~~
- (4) A governor's trainee position; ~~or when~~ is to be filled.
- (5) The director determines that, for good cause, ~~such a~~ notice is not necessary in the best interests of the state.

~~(d)~~ (c) All job postings, announcements, and advertisements for vacancies in ~~designated~~ safety-sensitive positions as defined in ~~K.A.R. 1-2-30~~ K.S.A. 75-4362, and amendments thereto, or commercial driver positions as defined in K.A.R. 1-2-20, shall include a statement regarding the drug testing requirements set forth in K.A.R. 1-6-32, K.A.R. 1-6-33, K.A.R. 1-9-19a, and K.A.R. 1-9-25.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 1996 75-3706, K.S.A. 2004 Supp. 75-3747, and 75-4362 and 75-4363; implementing K.S.A. 1996 Supp. 75-2939, 75-2942, 75-2943, 75-2944, 75-2945, 75-3707, 75-3746, and K.S.A. 2004 Supp. 75-4362, and 75-4363; effective May 1, 1979; amended May 1, 1981; amended May 1, 1983; amended, T-1-10-28-88, Oct. 31, 1988; amended Dec. 18, 1988; amended April 13, 1992; amended Dec. 17, 1995; amended Aug. 1, 1997; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 6: Recruiting and Staffing**

1-6-8. ~~Content of~~ Selection instruments. (a) Each appointing authority shall develop ~~selection instrument shall in a fair manner~~ instruments to fairly assess the capacity and fitness of applicants ~~or candidates to efficiently~~ perform the duties of the position in which employment is sought. Selection instruments may include ratings of training, experience, and other qualifications, written tests, performance tests, interviews, physical fitness tests, assessment center evaluations, medical examinations, or other selection procedures. In accordance with these regulations, the appointing authority shall be responsible for developing, maintaining, and validating selection instruments- and shall make all selection instruments, procedures, records, or other selection materials ~~shall be made~~ available to the director upon request. ~~An~~ Any agency, upon request, may be assisted by the director in developing, maintaining, and validating selection instruments. Selection instruments may also be developed, maintained, and validated by the director.

(b) Promotional selection instruments shall include, in addition to any or all of the selection instruments identified above, consideration of the applicant's ~~or candidate's~~ performance and length of service.

(c) Subject to policies established by the appointing authority ~~or the director~~ to protect the confidentiality of information obtained by using the selection material instruments, the ~~selection papers of an applicant or candidate~~ document or records containing this information may be inspected by the applicant ~~or candidate~~.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1996~~ 2004 Supp. 75-3747; implementing K.S.A. ~~1996 Supp.~~ 75-2939, 75-2942, 75-2943, and 75-3746; effective May 1, 1979; amended Dec. 17, 1995; amended Aug. 1, 1997; amended P-
_____.)

September 9, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 6: Recruiting and Staffing**

1-6-27. Demotion. (a) Any ~~permanent~~ employee with permanent status may be demoted to a position in a lower class if that position is in the same series of classes, or if the appointing authority determines that the employee can reasonably be expected to perform satisfactorily the duties of the position ~~for~~ in the lower class. ~~Any permanent~~ Each employee with permanent status who is demoted pursuant to this regulation shall be granted permanent status in the class to which demoted, effective on the date of the demotion.

(b) Each request for a voluntary demotion shall be subject to approval of the appointing authority. The employee shall not be entitled to appeal the voluntary demotion to the civil service board.

(c) The demotion of a ~~permanent~~ an employee with permanent status for unsatisfactory performance of duties, for disciplinary reasons, or for other good cause shall be managed in accordance with the appropriate procedures specified in ~~Article 10 of these regulations~~ K.S.A. 75-2944, K.S.A. 75-2949, K.S.A. 75-2949d, K.S.A. 75-2949e, and K.S.A. 75-2949f, and amendments thereto.

(d) An appointing authority may demote any new hire probationary employee or any probationary employee who was rehired on a basis other than reemployment or reinstatement to a class in a lower pay grade within the agency if the employee meets the qualifications for the lower class, if the employee can satisfactorily perform the duties of the lower class; and if the employee has consented. ~~Each probationary~~ Each employee with probationary status who is demoted

under this subsection shall start a new probationary period that shall be no fewer than six months in length.

(e) Each unclassified employee who is voluntarily demoted to a regular classified position shall serve a probationary period in accordance with K.A.R. 1-7-4.

(f) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1996~~ 2004 Supp. 75-3747; implementing K.S.A. ~~1996 Supp. 75-2948~~ and K.S.A. 2004 Supp. 75-2949; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended Dec. 17, 1995; amended Aug. 1, 1997; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 6: Recruiting and Staffing

1-6-29. Acting assignments. ~~When a classified position is vacant and requires the temporary assignment of an employee who has permanent status in another position, the appointing authority may proceed, based on the following principles:~~ (a) Any appointing authority may temporarily assign an employee who has permanent status to perform the duties of another position on the basis of an acting assignment if all of the following conditions are met:

(1)(A) The other position is vacant; or

(B) The incumbent in the other position is unable or unavailable to perform the duties of that position for 30 days or more.

(2) The appointing authority makes both of the following determinations:

(A) It is necessary to assign the duties of the other position to another employee until the vacancy is filled or the incumbent returns to work.

(B) There are no other viable alternatives to an acting assignment.

(3) The employee meets the qualifications of the other position.

(4) The acting assignment is made in accordance with the provisions of this regulation.

(b) The appointing authority shall initiate action to fill the position on a permanent basis, if the incumbent has permanently vacated the position. However, the appointing authority may delay filling the position because of a shortage of funds.

~~(b) An acting assignment may be used only when there are no other viable alternatives.~~

~~(c) The assignee shall meet the required selection criteria for the class of positions.~~

~~(d)~~(c) Acting assignments shall not be used to generate a series of acting assignments for an employee.

~~(e)~~(d) An acting assignment shall not exceed one year in length unless approved by the director. No acting assignments made pursuant to K.S.A. 75-4315a shall exceed 12 months in duration. Acting assignments shall not be retroactive. The acting assignment procedure shall not be used for a short duration, temporary assignment of an employee for fewer than 30 days.

~~(f)~~(e) Documentation of the acting assignment shall be placed in the employee's permanent record.

~~(g)~~(f)(1) If an employee is acting in a position assigned to a pay grade higher than that of the employee's normal position, the employee shall be paid at a step on the higher grade that gives the employee an increase in pay. Such an increase shall not exceed the highest step that would be possible if the employee was being promoted to the position. ~~For the duration of an acting assignment, the employee may receive pay step increases in accordance with applicable pay step increase regulations.~~

(2) When the acting assignment is terminated and the employee is returned to the former class, the employee's pay shall revert to whatever rate, ~~in dollar amount,~~ it would have been had the employee not received the acting assignment.

(3) Neither the employee's pay increase date nor the employee's status in the normal position shall be affected by an acting assignment.

~~(h)~~(g)(1) If an employee is acting in a position assigned to the same pay grade as, ~~or to a pay grade lower than,~~ that of the employee's normal position, the ~~employee shall be paid at the employee's normal pay rate~~ appointing authority may compensate the employee at a higher step of the pay grade than the step on which the employee is paid in the employee's normal position if

the appointing authority determines the pay increase is in the best interests of the state. Nothing in this regulation shall authorize pay above the maximum step of the pay grade. The employee's pay increase date shall be governed by the time-on-step requirement of the new step to which the employee is assigned under this subsection.

(2) When the acting assignment is terminated and the employee is returned to the former class, the employee's pay shall revert to whatever rate it would have been had the employee not received the acting assignment.

(h) If an employee is acting in a position assigned to a pay grade lower than that of the employee's normal position, the employee shall be paid at the employee's normal pay rate.

(i) For the duration of an acting assignment, the employee may receive pay step increases in accordance with applicable pay step increase regulations.

~~(j)~~(j) If the employee is promoted to a position in which the employee has served in an acting assignment, ~~the pay shall remain at the amount paid during the acting assignment, and~~ any accumulated months shall count towards the next pay step increase. The time served in the acting assignment may be credited towards the ~~promotional~~ probationary period required for promotions.

~~(k)~~(k) In a manner prescribed by the director, the appointing authority shall report to the director all acting assignments made by the appointing authority pursuant to this regulation.

(l) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 1996 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 1996 Supp. 75-2938, 75-3707, and K.S.A. 75-3746, and 75-4315a; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended Jan. 6, 1992; amended Dec. 17, 1995; amended Oct. 24, 1997; amended P-

_____.)

September 9, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 6: Recruiting and Staffing**

1-6-32. Candidate drug screening test for ~~designated~~ safety-sensitive positions. (a)

A drug test shall be administered to each candidate for a ~~designated~~ safety-sensitive position upon a conditional offer of employment for such a ~~designated~~ position.

(1) “Safety-sensitive position” shall be defined as provided in K.S.A. 75-4362(g), and amendments thereto.

~~(b)(2)~~ A “Conditional offer of employment,” for purposes of this regulation, means the an offer that is contingent upon participating in the drug screening program established under K.S.A. 75-4362 ~~or K.S.A. 75-4363~~, and amendments thereto.

~~(e)(b)~~ If a candidate fails to participate in the required drug screening test or receives a confirmed positive result based upon a test sample obtained from the candidate, the following ~~provisions~~ requirements shall apply:

(1) The conditional offer of employment shall be null and void.

(2) The candidate shall be disqualified from certification for ~~designated~~ safety-sensitive positions in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 for a period of one year from the effective date of the disqualification action.

~~(d)~~ (c) Each candidate who has been given a conditional offer of employment shall be informed of the provisions of subsection (b) in writing and shall sign a statement agreeing to participate in the test before the test is administered. Failure to accept this condition shall make the conditional offer of employment null and void.

~~(e)~~ (d) Each candidate required to submit to a drug screen shall be advised of all of the following aspects of the drug screening program:

- (1) The methods of drug screening that may be used;
- (2) the substances that may be identified;
- (3) the consequences of a refusal to submit to a drug screening test or of a confirmed positive result; and
- (4) the reasonable efforts to maintain the confidentiality of results and any medical information that ~~may~~ are to be provided in accordance with subsection (j).

~~(f)(e) Procedures and testing personnel used in collecting, analyzing, and evaluating test samples shall meet the standards established by the director.~~ Drug screening tests may screen for any substances listed in the Kansas controlled substances act. ~~The substances to be identified by the tests and the threshold levels of those substances shall be determined by the director.~~

~~(g)(f)~~ Any candidate who has reason to believe that technical standards were not followed in deriving a confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

~~(h)(g)~~ A retest by the original or a different laboratory on the same or a new specimen may be authorized only by the director, if the director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or if there is other appropriate cause to warrant a retest.

~~(i)(h)~~ If a candidate intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies test results, the conditional offer of employment shall be withdrawn. Any of these actions by a candidate shall be grounds

for disqualification for all positions in state service in accordance with K.S.A. 75-2940, and amendments thereto.

~~(i)~~(i) If the result of a drug screening test warrants disqualification action, a candidate shall be afforded due process in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 before any final action is taken.

~~(k)(j)~~(1) Individual test results and medical information shall be considered confidential and shall not be disclosed publicly in accordance with K.S.A. 75-4362, and amendments thereto. ~~A~~ Each candidate shall be granted access to the candidate's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each ~~agency~~ appointing authority shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the ~~agency~~ agency's personnel officer or a designee, persons in the supervisory chain of command, the ~~agency~~ agency's legal counsel, the ~~agency~~ agency's appointing authority ~~or a designee~~, the secretary of administration or a designee, the department of ~~administration~~ administration's legal counsel, and the director or a designee. Further access to these records shall not be authorized without the express consent of the director.

(k) This regulation shall be effective on and after June 5, 2005. (Authorized by and K.S.A. 2004 Supp. 75-3747 and 75-4362; implementing K.S.A. 1998 75-2940 and K.S.A. 2004 Supp. 75-4362 and K.S.A. 75-4363; effective, T-1-10-28-88, Oct. 28, 1988; effective Dec. 19,

1988; amended Feb. 19, 1990; amended April 13, 1992; amended Dec. 17, 1995; amended
October 1, 1999; amended P-_____.)

September 30, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 7: Probationary Period and Employee Evaluation

1-7-3. Probationary period required. (a) The probationary period shall be considered as a working test of the employee's ability to perform adequately in the position to which the employee was hired. In order to aid the agency in developing efficient employees, the supervisor shall give reasonable instruction and training that may be required throughout the probationary period. Each ~~agency~~ appointing authority shall establish procedures so that any problems with probationary employees will be brought to the attention of the agency management for appropriate action ~~prior to~~ before the end of the probationary period.

(b) ~~Prior to~~ Before the end of the probationary period, the appointing authority shall provide the director with results of a performance review for the employee. If the performance review given to a probationary employee ~~prior to~~ before the end of the probationary period is less than satisfactory, the employee shall not be granted permanent status.

(c) Except as provided in K.A.R. 1-7-4, all new hires, promotions, and rehires shall be tentative and subject to a probationary period as authorized by K.A.R. 1-7-4. If the probationary period of an employee is to be extended as authorized by K.A.R. 1-7-4, the appointing authority ~~or the authority's representative~~, ~~prior to~~ before the end of the probationary period, shall furnish the employee with a copy of the performance review ~~which states~~ stating that the ~~probation~~ probationary period is extended. Results of the performance review shall be provided to the director.

(d) Any probationary employee, other than an employee on probation due to a promotion from a position in which the employee had permanent status, may be dismissed by the appointing authority at any time during the probation period.

(e) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.

(Authorized by K.S.A. ~~1994~~ 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing ~~K.S.A. 75-2946~~ and K.S.A. ~~1994~~ Supp. 75-2943, as amended by ~~1995 SB 175, § 8~~ 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended P- _____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 7: Probationary Period and Employee Evaluation

1-7-10. Performance reviews. (a) ~~The appointing authority shall have performance reviews conducted for each employee under the authority's jurisdiction in the classified service.~~ Each agency's appointing authority shall establish and implement a performance review system and shall ensure that performance reviews are conducted for each employee in the classified service. The performance review shall be used to ~~review~~ assess the effectiveness of each employee and ~~to ensure that the employee's performance is consistent with basic employee performance principles and practices.~~

(1) ~~The supervisor and employee shall negotiate priority outcomes at the beginning of a review period and any time priority outcomes change. In case of disagreement, the decision of the supervisor shall prevail.~~ The performance review of each employee shall be completed by the employee's immediate supervisor or by another qualified person designated by the appointing authority. "Qualified person" means a person who is familiar with the duties and responsibilities of the employee's position and with the job performance of the employee.

(2) ~~Each employee shall be given an opportunity to add comments to the performance review at each feedback session. The employee shall be given a copy of the performance review at the beginning of the review period and each time a feedback session is conducted or priority outcomes change. The appointing authority shall encourage performance review feedback sessions for employees at least quarterly.~~ A performance review shall be completed and a rating assigned at least annually in the manner required by the director.

~~(3) The performance review of each employee shall be completed by the employee's immediate supervisor, or by another qualified person or persons designated by the appointing authority. A qualified person is one who is familiar with the duties and responsibilities of the employee's position and with the job performance of the employee. The appointing authority may conduct a special performance review rating for any employee at any time, unless prohibited under K.A.R. 1-14-8 due to pending layoffs.~~

~~(4) A rating shall be assigned to the performance review, at least annually, in the manner required, and on the forms prescribed by the director. The appointing authority may give a special performance review rating for any employee at any time. Each employee shall be given the opportunity to sign the employee's performance review as evidence that the employee has been informed of the performance review rating. The employee's signature shall not abridge the employee's right of appeal if the employee disagrees with the rating. The failure of the employee to sign the performance review shall not invalidate the rating.~~

~~(5) Each employee shall be given the opportunity to sign the employee's performance review as evidence that the employee has been informed of the performance review rating; that signature shall not abridge the employee's right of appeal if the employee disagrees with the rating. Failure of the employee to sign the performance review shall not invalidate the rating.~~

~~(b) Subject to provisions of K.S.A. 75-2949c, two consecutive performance review ratings of less than satisfactory may be utilized as a basis for demotion, suspension or dismissal of the employee.~~

~~(c) If the performance review rating assigned to a probationary employee at the end of the probationary period is less than satisfactory, the employee shall not be granted permanent status.~~

~~(d)~~(1) Any employee entitled to appeal a rating under K.A.R. 1-7-11 may do so within seven calendar days after being informed of the rating. After the period of seven calendar days for filing appeals has expired and if no appeal has been filed, the appointing authority or the authority's designee shall review the rating, shall make any changes deemed necessary, shall sign the performance review, ~~and shall have copies of~~ place the entire original performance review transmitted to the employee, in the employee's official personnel file, and shall provide a copy of the review to the employee. In addition, the appointing authority may provide copies to each reviewer or reviewers as if the appointing authority deems necessary.

(2) If the appointing authority makes any change in the rating; or adds any comment on the performance review, the review shall be returned to the employee to be signed again, and the employee, if eligible to appeal the rating, shall again have seven calendar days to file an appeal to the appointing authority. The final results of the performance review shall be submitted reported to the director.

(c) Subject to the provisions of K.S.A. 75-2949e, and amendments thereto, two performance review ratings of less than satisfactory that are conducted within 180 days may be utilized as a basis for demotion, suspension, or dismissal of the employee.

(d) If the performance review rating assigned to an employee with probationary status at the end of the probationary period is less than satisfactory, the employee shall not be granted permanent status.

(e) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.
(Authorized by K.S.A. ~~1994~~ 75-2943 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. ~~1994 Supp. 75-2943~~, ~~as amended by 1995 SB 175, § 8~~ 75-2949e, and 75-3746; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986;

amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995;

amended P- _____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 7: Probationary Period and Employee Evaluation

1-7-11. Employees entitled to appeal performance reviews. (a) Any ~~classified~~ employee with permanent status may appeal a performance review rating that is lower than the ~~highest possible rating.~~ employee who receives a rating that is lower than the highest possible rating may appeal that rating if the employee meets either of the following conditions:

(1) The employee has permanent status, including an employee with permanent status who is serving a probationary period.

(2) The employee is on probation due to a rehire on the basis of reinstatement.

~~(b)(1) Under either of the following conditions, an employee on probation shall have the same right to appeal the performance review as an employee with permanent status:~~

~~(A) an employee is on probation because of a promotion or is rehired on the basis of reinstatement and has had permanent status in the class in which the employee most recently served; or~~

~~(B) an employee with previous permanent status is reallocated to a position with probationary status.~~

~~(2)(A)~~ When an action concerning the end of ~~probation~~ probationary status is dependent upon the performance review, the appeal committee may make a recommendation to the appointing authority concerning whether or not to grant permanent status to the employee. However, the appointing authority, ~~subject to whatever limitations are imposed by the adjective rating of the performance review prepared by the appeal committee,~~ shall have the right to make

the determination of whether or not to grant permanent status, subject to whatever limitations are imposed by the adjective rating of the performance review prepared by the appeal committee.

~~(B) If the time required to handle an appeal results in the employee having no final performance review by the end of the probationary period, the appointing authority may extend the probationary period for a limited period as is necessary for the appeal committee to prepare the final performance review.~~

~~(c) In a manner prescribed by the director, the appointing authority shall report to the director all probationary extensions made by the appointing authority pursuant to this regulation.~~

(2) Notwithstanding the limits on the duration of probationary periods established elsewhere in these regulations, the appointing authority may extend the probationary period for a limited period of time as necessary to allow the appeal committee to prepare the final performance review.

(3) The appointing authority shall report to the director each extension of a probationary period made pursuant to this regulation.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1996~~ 75-2943, 75-3706, and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. ~~1996 Supp. 75-~~ 2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended Oct. 24, 1997; amended P-
_____.)

March 30, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 7: Probationary Period and Employee Evaluation

1-7-12. Performance review appeal procedure. (a)(1) Each employee who is eligible to appeal a performance review under K.A.R. 1-7-11 ~~and who believes that the rating was unfair~~ may, within seven calendar days after the employee has been informed of the rating, ~~address~~ submit an appeal in writing to the appointing authority.

(2) ~~The appointing authority or such authority's designee,~~ Within seven calendar days following receipt of the employee's written notice of appeal, the appointing authority shall have the option either to make any changes in the rating deemed appropriate, or to appoint a committee of three or more persons to hear the appeal.

(3) If the appointing authority ~~or the authority's designee~~ makes any change in the rating, or adds any comments to the rating form, the rating form shall be returned to the employee to be signed again. The employee shall be informed that, if the employee disagrees with the revised performance review, the employee may, within seven calendar days, file an appeal in writing to the appointing authority, ~~and the employee shall be informed of that right.~~ If the employee files ~~such~~ an appeal of the revised review, the appointing authority ~~or the authority's designee~~ shall, within seven calendar days following receipt of the employee's written notice of appeal, appoint a committee of three or more persons to hear the appeal.

(4) If an appeal committee is appointed to hear the appeal, persons shall be appointed who, in the appointing authority's judgment, will be fair and impartial in discharging their responsibilities. Before appointing the appeal committee, the appointing authority shall give the

employee a reasonable opportunity for consultation on the matter of appointment of the appeal committee. The appeal committee shall not include the initial rater or raters. The members of the appeal committee shall be officers or employees of the agency. However, the appointing authority may select one or more members of the committee from one or more other state agencies if the appointing authority determines that the objective of a fair and impartial hearing can best be served by doing so.

(b)(1) As soon as the committee has been appointed, the appointing authority shall notify the employee of the names of the members of the committee.

(2) The appeal committee shall consider any relevant evidence that may be offered by the employee and the rater, and shall make available to the employee any evidence ~~it~~ that the committee may secure on its own initiative. The employee and rater shall have an opportunity to question any person offering evidence to the appeal committee. The appeal committee may limit the offering of evidence that it deems to be repetitious or irrelevant.

(3) Within 14 calendar days of the date the members of the committee were appointed, the committee shall prepare and sign a rating for the employee. That rating shall be final and not subject to further appeal. The appeal committee shall give the rating to the appointing authority, who, within five calendar days, shall ~~transmit~~ provide copies to the employee, ~~the~~ and each person ~~or persons~~ who originally rated the employee, ~~and the division of personnel services.~~ The appeal committee shall report the rating to the director.

(4) If the appointing authority cannot appoint an appeal committee ~~in~~ within the prescribed seven calendar days, or if the appeal committee cannot make its rating within 14 calendar days of the date of its appointment, the appointing authority may extend these time limits for a reasonable period of time.

(c) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.

(Authorized by K.S.A. ~~1994~~ 75-2943, 75-3706, and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. ~~1994 Supp.~~ 75-2943, as amended by ~~1995 SB 175, § 8~~ 75-3707, and 75-3746; effective May 1, 1983; amended, T-84-20, July 26, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended P- _____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 8: Training and Career Development

1-8-2. Orientation. ~~(a) Establishment and maintenance of a program of orientation for new employees shall be the responsibility of the director, in cooperation with agency administrators~~ Each appointing authority shall be responsible for establishing and maintaining a program of orientation for new employees.

~~(b) Supervisors shall orient each employee new to a position to provide the employee with information on~~ Each orientation shall be relevant to each of the following:

- (1) That agency's mission, vision, and goals;
- (2) the employee's job responsibilities;
- (3) employee benefits; and
- (4) other aspects of the workplace pertinent to an employee's need to successfully execute the responsibilities of successful performance in the position.

~~(c) Each agency shall ensure that all employees receive training regarding the state's management philosophy, including quality management principles and practices, agency vision and goals, and other specific aspects of the state's management philosophy. Each employee shall be provided with orientation regarding the specific duties and responsibilities of the employee's position and the way in which that position helps to achieve the agency vision and goals.~~

~~(d)~~ Any agency may supplement the orientation information required above with specific agency materials.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A.

2004 Supp. 75-3747, ~~as amended by L. 1994, ch. 248, § 29, and L. 1994, ch. 91, § 1;~~
implementing ~~L. 1994, ch. 91, § 1~~ K.S.A. 75-2925 and 75-3746; effective May 1, 1979;
amended, T-1-9-19-94, Sept. 19, 1994; amended, Nov. 21, 1994; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 8: Training and Career Development

1-8-3. Training standards. ~~(a) The director, in cooperation with the agency administrators, shall develop guidelines for the amount of time employees spend in training programs. These guidelines shall be reviewed periodically and updated as necessary. Training time shall include both the time spent in formal programs as well as on the job training.~~

~~(b) If an agency desires to pay tuition and other educational expenses of any employee, it shall be paid in accordance with K.S.A. 75-5519.~~

~~(c) Leave of absence may be granted to employees for work related programs consistent with the training and development policy of the state. Employees may be granted leave with or without pay, depending on the nature and length of the training program, as well as the benefits to the state. Each appointing authority shall periodically assess, identify, and provide that agency's employees with access to appropriate education and training to meet workforce development needs. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2925 and 75-3746; effective May 1, 1979; amended P-_____.)~~

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 8: Training and Career Development

1-8-4. Agency ~~reports and plans~~ training records. ~~Agencies shall develop training plans and reports in the form and manner prescribed by the director. Such reports shall include operating budgets for training, summarizations of programs and personnel included in the training programs, and other data as required by the director. Such reports shall be submitted annually.~~ Each appointing authority shall maintain training records and provide these records to the director upon request. This regulation shall be effective on and after June 5, 2005.

(Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2925, 75-2950, and 75-3746; effective May 1, 1979; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Revoked Regulation
Article 8: Training and Career Development

1-8-5. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 1995 Supp. 75-3747 and K.S.A. 1995 Supp. 75-37,115; implementing K.S.A. 1995 Supp. 75-37,115; effective May 1, 1979; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended May 31, 1996; revoked P-_____.)

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 8: Training and Career Development**

1-8-5. Supplemental management training programs. ~~Each agency shall be encouraged to develop or provide supplemental management training programs for managers and potential managers. Guidelines for such programs shall be developed by the director. Where appropriate, such programs may be developed and conducted by the director on a state-wide basis where a centralized effort is more effective. Each management training program shall be consistent with the vision, principles, and practices that are contained in the supervisory training program authorized by K.A.R. 1-8-6. (Authorized by K.S.A. 1995 Supp. 75-3747; and K.S.A. 1995 Supp. 75-37,115; implementing K.S.A. 1995 Supp. 75-37,115; effective May 1, 1979; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended May 31, 1996; revoked P-_____.)~~

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 8: Training and Career Development**

1-8-6. Supervisory Leadership training programs. ~~(a) A program~~ Each appointing authority shall be developed and maintained by the director ~~develop and maintain a leadership program~~ to provide supervisory training of an appropriate scope for each employee appointed to a ~~lead worker, supervisor, or manager~~ supervisory position and for each employee currently working in a ~~lead worker, supervisor, or manager~~ supervisory position in ~~any~~ the agency. The program shall provide supervisory continuing education training of an appropriate scope for each employee who is currently a ~~lead worker, supervisor, or manager~~.

~~(b) Any agency may develop its own supervisory training programs, which shall include periodic supervisory continuing education training and shall be consistent with guidelines developed by the director. Each agency that has its own supervisory training program shall submit a copy of the program to the director. Any agency that does not have a supervisory training program may request a copy of the director's program.~~

~~(c) No employee shall be granted permanent status in a lead worker, supervisor, or manager position to which the employee is hired or promoted until the employee has successfully completed the prescribed supervisory training program. Each person hired or promoted into a lead worker, supervisor, or manager position shall complete the prescribed program within six months of the date of hire or promotion. This time period for training may be extended to 12 months from the date of appointment or promotion if the training cannot be completed within six months. If a person has received prior supervisory training consistent with~~

~~guidelines established by the director, the appointing authority may exempt the employee from supervisory training, subject to approval of the exemption by the director.~~

~~(d) Each lead worker, supervisor, or manager who has completed the initial supervisory training, or who was exempted from the initial supervisory training, shall complete supervisory continuing education training every three years as long as the lead worker, supervisor, or manager remains in a lead worker, supervisor, or manager position. Each person remaining in a lead worker, supervisor, or manager position shall complete a prescribed continuing education program no later than six months after the three-year anniversary date of completing the initial supervisory training program or subsequent continuing education programs. This time period for continuing education training may be extended to 12 months from the three-year anniversary date of completing the training if it cannot be completed within six months. There shall be no exemptions for any person in a lead worker, supervisor, or manager position from the required continuing education training.~~

~~(e) The terms “lead worker,” “supervisor,” and “manager” shall be defined in accordance with K.A.R. 1-2-84, K.A.R. 1-2-84a, and K.A.R. 1-2-84b. Each appointing authority shall provide access to training and opportunities for continuing education and development for each employee in a supervisory position. This regulation shall be effective on and after June 5, 2005.~~

~~(Authorized by K.S.A. 2004 Supp. 75-3747 and ~~K.S.A.~~ 75-37,115; implementing K.S.A. 75-3746 and K.S.A. 2004 Supp. 75-37,115; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended Dec. 17, 1995; amended Oct. 1, 1999; amended P-_____.)~~

September 30, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 9: Hours; Leaves; Employee-Management Relations

1-9-1. Hours of work. (a) ~~Unless specifically approved by the secretary of administration,~~ The standard ~~workday~~ workweek for each full-time employee shall be ~~eight hours, and the standard workweek shall be 40 hours during a given seven-day work week, except as provided in subsection (b)~~ workweek.

(b)(1) Any agency head may submit a request for a deviation from the standard ~~workday~~ workweek in subsection (a) for particular classes of employees in writing to the director. Any such deviation shall be subject to approval by the secretary upon recommendation of the director.

(2) ~~The salaries of exempt employees shall be established to cover the hours required to complete the job.~~ Appointing authorities shall not be required to designate a deviation from the standard workweek established in paragraph (1) of this subsection for ~~these~~ exempt positions.

(c) It shall be a condition of employment with the state that each employee is required to work the number of hours per day and the number of days per ~~work week~~ workweek or work period specified for the employee's position, except when on authorized leave.

(d) Each exempt employee shall be paid on a salary basis ~~and in which the salary of the exempt employee is established to cover the hours required to complete the job.~~ Each exempt employee shall be considered to be in pay status except for the following periods of time:

(1) Full days of leave without pay; ~~and~~

(2) full ~~work weeks~~ workweeks of leave without pay due to a suspension; or

(3) one or more full days of leave without pay due to a suspension imposed in good faith for violation of workplace conduct rules or for an infraction of a safety rule of major significance.

Exempt employees may be required to use available vacation or sick leave or other paid leave, as appropriate, and shall be required to obtain authorization for ~~such~~ absences in ~~such~~ the form and at ~~such~~ the time as prescribed by the employee's appointing authority. Leave for employees in exempt positions shall be administered in accordance with the provisions of K.A.R. 1-9-20.

(e) The appointing authority may require ~~employees~~ each employee to work overtime ~~when~~ those hours that are necessary for the efficient conduct of the business of the state.

(f) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.

(Authorized by K.S.A. ~~1994~~ 2004 Supp. 75-3747; implementing K.S.A. 75-3746, 75-5505, and 75-5515; effective May 1, 1979; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 9: Hours; Leaves; Employee-Management Relations

1-9-2. Holidays. (a) The following days shall be legal holidays for the state service: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When one of these legal holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday for state employees. When one of these legal holidays falls on a Sunday, the following Monday shall be the officially observed holiday for state employees.

(b)(1) The governor may designate, in a particular year, additional days on which state offices are to be closed in observance of a holiday or a holiday season. For the purpose of this regulation, such a day ~~is termed~~ shall be deemed a legal holiday.

(2) Each full-time employee who works a nonstandard workweek shall receive the same number of holidays in a calendar year as employees whose regular work schedule is Monday through Friday.

(3) The governor may designate a discretionary holiday for observance of a holiday or other special day without closing state services. Each eligible employee shall receive the number of hours equal to the number of hours that employee is regularly scheduled to work, for a discretionary holiday. All hours for a discretionary holiday shall be taken on the same day. ~~The amendments to this subsection shall be effective on and after December 26, 1999.~~

(c)(1) For each holiday, each full-time employee shall receive holiday credit equal to the number of hours regularly scheduled to work, subject to the provisions of paragraph (b)(2).

“Holiday credit” means pay or credit for paid time off at a straight-time rate.

(2) Each full-time employee who is required to work on a legal holiday or on an officially observed holiday shall be awarded holiday credit in addition to any holiday compensation available under subsection (d). The appointing authority shall determine whether the holiday credit will be in the form of pay or paid time off to be used at a later time.

(d) Any appointing authority may require some or all employees to work on a legal holiday, an officially observed holiday, or both.

(1) Each full-time, nonexempt employee who is required to work on a legal holiday or on an officially observed holiday shall receive holiday compensation in addition to the employee’s regular pay for the pay period. “Holiday compensation” means either pay or holiday compensatory time at a time-and-a-half rate for those hours worked on a holiday. The appointing authority shall determine whether the compensation for this holiday work will be in the form of pay or holiday compensatory time.

(2) The appointing authority shall make the following determinations for each exempt employee required to work on a holiday:

(A) Under what conditions the employee will be required to work;

(B) whether or not the employee will receive holiday pay or holiday compensatory time in addition to the employee’s regular salary; and

(C) the rate at which any holiday pay or holiday compensatory time will be paid.

(3) Exempt employees shall take holiday compensatory time only in either half-day or full-day increments.

(e) Hours worked on a holiday by a nonexempt employee that result in overtime hours during that ~~work week~~ workweek or work period shall be compensated pursuant to K.A.R. 1-5-

24 for those holiday hours worked on the holiday and at an additional half-time rate for the resulting overtime hours.

(f) If a legal holiday is preceded or followed by an officially observed holiday, each employee shall receive holiday credit for only one of the two days. Each full-time employee who is required to work on both the legal holiday and the officially observed holiday shall receive holiday compensation for only one of the two days. If the number of hours worked on the two days is not the same, the employee shall receive holiday compensation for the day on which the employee worked the greater number of hours.

(g) Each nonexempt employee who works less than full-time on a regular schedule shall receive, for each holiday that falls on a day included in the employee's regular work schedule, holiday credit equal to the time the employee is regularly scheduled to work on that day. If the employee works on the holiday, the employee shall receive, in addition, holiday compensation for the hours worked on the holiday.

(h) Each nonexempt employee who works less than full-time on an irregular schedule, as determined by the appointing authority, shall not receive holiday credit but shall be paid at the time-and-a-half rate for those hours worked on the holiday.

(i) An employee who is on leave without pay for any amount of time either on the last working day before a holiday or the first working day following a holiday shall not receive holiday credit, unless approved by the appointing authority ~~granted an authorized leave without pay for a portion of either or both of the working days and approved the holiday credit for the employee.~~

(j) Any employee ~~who separates from the service and whose next last day at work,~~ following the employee's last day at work, would have been before separating from state service

is the day before a regularly scheduled holiday shall not receive ~~pay~~ holiday credit for the holiday.

(k) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended May 1, 1985; amended Dec. 17, 1995; amended June 20, 1997; amended Oct. 1, 1999; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 9: Hours; Leaves; Employee-Management Relations

**1-9-13. Payment for accumulated vacation leave, ~~and compensatory time credits,~~
and holiday compensatory time upon separation.** ~~Any~~ Each employee who ~~resigns or is~~
~~otherwise separated~~ separates from ~~the~~ the state service shall be paid for that employee's
accumulated vacation leave, ~~and compensatory time credits,~~ and holiday compensatory time.
Pay for an employee's vacation leave, ~~or compensatory time credit,~~ and holiday compensatory
time shall be calculated using the appropriate hourly or salary rate set forth in K.A.R. 1-5-21 and,
with respect to non-exempt employees, the provisions of K.A.R. 1-5-24(e)(4). Pay for ~~such the~~
vacation ~~or leave,~~ compensatory time credit, and holiday compensatory time shall be a lump sum
addition to the employee's last paycheck. This regulation shall be effective on and after June 5,
2005. (Authorized by K.S.A. ~~1996~~ 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5514;
implementing K.S.A. 75-3707, 75-3746, and 75-5508; effective May 1, 1979; amended May 1,
1984; amended May 1, 1985; amended, T-86-36, Dec. 11, 1985; amended, T-87-11, May 1,
1986; amended May 1, 1987; amended Feb. 1, 1993; amended Dec. 27, 1993; amended Dec. 17,
1995; amended June 20, 1997; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 9: Hours; Leaves; Employee-Management Relations

1-9-14. Transfer of leave credits. (a) When an employee ~~transfers from one~~ is appointed to a position in a different state agency to another, ~~his or her accumulated vacation and sick all types of leave credits for which the employee has a balance at the time of the appointment, except for compensatory time credits and holiday compensatory time credits, shall be transferred with the employee. The new agency may require that the transferring employee work six (6) months in that agency before he or she uses vacation leave.~~

(b) ~~When an employee separates from one agency and is appointed to another agency on the following working day (the separation and appointment being other than a transfer), the employee's accumulated vacation and sick leave shall be transferred with the employee.~~

(c) ~~If the employee has any compensatory time credits at the time of the transfer or other separation, he or she shall be paid for such credits by the agency from which he or she is transferring.~~ All accumulated compensatory time and holiday compensatory time shall be paid by the agency from which the employee is leaving at the time the employee leaves that agency. The accumulated compensatory time and holiday compensatory time shall be paid as a lump sum addition to the employee's last paycheck from that agency as provided in K.A.R. 1-9-13. However, upon request, an employee may transfer accumulated compensatory time and holiday compensatory time if approved by both the agency from which the employee is leaving and the agency to which the employee is going. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5514;

implementing K.S.A. 75-3707, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5508; effective May
1, 1979; amended P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 9: Hours; Leaves; Employee-Management Relations

1-9-19. ~~Safety and health.~~ ~~The director, in cooperation with appropriate agency administrators, shall establish standards of health and safety in state agencies, and shall develop a comprehensive health and safety program for the state service.~~ **Relief from duty or change of duties of a permanent employee.** (a) Under any of the circumstances identified in K.S.A. 75-2949(i), and amendments thereto, any appointing authority may relieve an employee from duty and place the employee on administrative leave or change the duties of the employee, pursuant to the provisions of subsections (b) and (c).

(b) If the duties of an employee are changed, the appointing authority shall notify the employee in writing of the date the duties are to be changed, the manner in which the duties are to be changed, the reason for the change, and the expected date for resumption of regular duties or other disposition of the matter. The appointing authority shall report any change in duties that lasts more than 30 days to the director.

(c) If an employee is relieved of all duties and placed on administrative leave, the appointing authority shall notify the employee, in writing and within seven calendar days of the date the employee was relieved from duty with pay, of the reasons for that action and either of the following:

(1) The approximate length of time that the employee is to be relieved of duties and the date by which a determination in the matter is expected; or

(2) the date on which a determination in the matter was made and either the date on

which the employee is to be returned to duty or the date on which any other disposition of the matter that has been decided upon by the appointing authority is to be implemented.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-2949, K.S.A. 75-3706, and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 2004 Supp. 75-2949, K.S.A. 75-3707, and 75-3746; effective May 1, 1979; amended P-
_____.)

September 9, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 9: Hours; Leaves; Employee-Management Relations

1-9-19a. Drug screening test for certain employees ~~in designated positions, and all state employees at correctional facilities.~~ (a) Any employee ~~in a designated position or any state employee of a correctional facility~~ holding one of the following positions may be required to submit to a drug screening test in accordance with K.S.A. 75-4362 ~~and K.S.A. 75-4363~~, and amendments thereto, based upon reasonable suspicion of illegal drug use by that employee:

- (1) Any safety-sensitive position;
 - (2) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, that is not a safety-sensitive position;
 - (3) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 et seq., and amendments thereto;
 - (4) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 et seq., and amendments thereto; and
 - (5) any employee of a state veteran's home operated by the Kansas commission on veteran's affairs, as described in K.S.A. 76-1901 et seq. and K.S.A. 76-1951 et seq., and amendments thereto.
- (b)(1) "Safety-sensitive position" shall be defined as provided by K.S.A. 75-4362(g), and amendments thereto.
- (2) "Reasonable suspicion" means a judgment, supported by specific, contemporaneous, articulable facts or plausible inferences, that is made regarding the employee's behavior,

appearance, or speech or supported by evidence found or reported that indicates drug use by the employee. Reasonable suspicion may be based on, ~~among other circumstances,~~ one or more of the following:

(A) An on-the-job accident or occurrence in which there is evidence to indicate any of the following:

(i) The accident or occurrence was in whole or in part the result of the employee's actions or inactions;

(ii) the employee exhibited behavior or in other ways demonstrated that the employee may have been using drugs or may have been under the influence of drugs; or

(iii) a combination of ~~these~~ the factors specified in paragraphs (b)(2)(A)(i) and (ii) is present;

(B) an on-the-job incident that could be attributable to drug use by the employee, including a medical emergency;

(C) direct observation of behavior exhibited by the employee that ~~may~~ could render the employee unable to perform the employee's job, in whole or part, or that ~~may~~ could pose a threat to safety or health;

(D) information that has been verified by a person with the authority to determine reasonable suspicion and that indicates either of the following:

(i) The employee ~~may~~ could be using drugs or is under the influence of drugs, and this circumstance is affecting on-the-job performance; or

(ii) the employee exhibits behavior that ~~may~~ could render the employee unable to perform the employee's job or ~~may~~ could pose a threat to safety or health;

(E) physical, on-the-job evidence of drug use by the employee or possession of drug

paraphernalia;

(F) documented deterioration in the employee's job performance that could be attributable to drug use by the employee; and

(G) any other circumstance providing an articulable basis for reasonable suspicion.

~~(2)(c)~~ Agencies Any appointing authority may ask ~~a current~~ any employee in a ~~designated position or current state employees at a correctional facility~~ specified in subsection (a) to submit to a drug screening test under the circumstances of reasonable suspicion as a condition of employment. Refusal to comply with ~~these requirements~~ this requirement shall be considered the equivalent of receiving a confirmed positive result for referral or disciplinary purposes.

~~(b)(d)~~ Each employee required to submit to a drug screening test shall be notified of that requirement in writing. ~~Each employee required to submit to a drug screening test~~ and shall be advised of all of the following aspects of the drug screening program:

(1) The methods of drug screening that may be used;

(2) the substances that ~~may~~ can be identified;

(3) the consequences of a refusal to submit to a drug screening test or a confirmed positive result; and

(4) the reasonable efforts to maintain the confidentiality of results and any medical information that ~~may~~ are to be provided in accordance with subsection (k).

~~(e)(c)~~ ~~Procedures and testing personnel used in collecting, analyzing, and evaluating test samples shall meet the standards established by the director.~~ Drug screening tests may screen for any substances listed in the Kansas controlled substances act. ~~The substances to be identified by the tests and the threshold levels of those substances shall be determined by the director.~~

~~(d)~~(f) Any employee who has reason to believe that technical standards were not followed in deriving the employee's confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

~~(e)~~(g) A retest by the original or a different laboratory on the same or a new specimen may be authorized ~~only~~ by the director, if the director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or has other appropriate cause to warrant a retest.

~~(f)~~(h) An employee who receives a confirmed positive drug screen result shall be subject to dismissal in accordance with K.S.A. 75-2949d, and K.S.A. 75-4362, and amendments thereto, ~~and K.A.R. 1-10-6~~ as follows:

(1) Except as provided in paragraph ~~(f)~~(2) of this subsection, the employee shall not be subject to dismissal solely on the basis of the confirmed positive result if the employee has not previously had a confirmed positive result or the equivalent and the employee successfully completes an appropriate and approved drug assessment and recommended education or treatment program.

(2) The employee shall be subject to dismissal ~~pursuant to K.A.R. 1-10-6~~ if the employee is a temporary employee, ~~or~~ is in trainee status, ~~or is on probation, other than for a promotional appointment,~~ probationary status at the time the employee ~~was~~ is given written notice of the drug screen requirement.

(3) The employee shall be subject to dismissal in accordance with K.S.A. 75-2949f, and amendments thereto, if the employee fails to successfully complete an appropriate and approved drug assessment and recommended education and treatment program.

(4) The employee shall be subject to dismissal, in accordance with K.S.A. 75-2949f, and

amendments thereto, if the employee has previously had a confirmed positive result or the equivalent.

(5) This regulation shall not preclude the ~~agency~~ appointing authority from proposing disciplinary action in accordance with K.S.A. 75-2949d, and amendments thereto, for other circumstances that occur in addition to a confirmed positive result and that are normally grounds for discipline.

~~(g)(i)~~ ~~Any current~~ Each employee who intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies a test result shall be subject to dismissal pursuant to K.S.A. 75-2949f, and amendments thereto.

~~(h)(j)~~ If the result of a drug screening test warrants disciplinary action, an employee with permanent status shall be afforded due process in accordance with K.S.A. 75-2949, and amendments thereto, ~~and K.A.R. 1-10-6~~ before any final action is taken.

~~(i)(k)(1)~~ All individual results and medical information shall be considered confidential and, in accordance with K.S.A. 75-4362, and amendments thereto, shall not be disclosed publicly ~~in accordance with K.S.A. 75-4362, and amendments thereto.~~ Each employee shall be granted access to the employee's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each ~~agency~~ appointing authority shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the ~~agency~~ agency's personnel officer or a designee, persons in the supervisory chain of command, the ~~agency~~ agency's legal counsel, the ~~agency~~ agency's appointing authority ~~or a~~

~~designee~~, the secretary of administration or a designee, the department of administration
administration's legal counsel, and the director or a designee. Further access to these records
shall not be authorized without the express consent of the director.

(l) This regulation shall be effective on and after June 5, 2005. (Authorized by ~~and~~
~~implementing~~ K.S.A. ~~1998~~ 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 2004 Supp. 75-
4362 and K.S.A. 75-4363; implementing K.S.A. 2004 Supp. 75-2949, K.S.A. 75-2949f, 75-3707,
and K.S.A. 2004 Supp. 75-4362; effective, T-1-10-28-88, Oct. 28, 1988; effective Dec. 19, 1988;
amended Feb. 19, 1990; amended April 13, 1992; amended May 31, 1996; amended Oct. 1,
1999; amended P-_____.)

October 1, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 9: Hours; Leaves; Employee-Management Relations

1-9-20. ~~Exit interview program.~~ Each agency shall have an exit interview program, designed as a uniform procedure to obtain information to reduce employee turnover; to provide better selection of employees; and to improve working conditions. This program will indicate why an employee is resigning his or her position and what the individual work situation was that he or she experienced. The director shall provide assistance to agencies in developing, implementing, and maintaining an exit interview program. In conducting an exit interview, the supervisor or the personnel officer shall obtain, among other information, the following information:

(a) ~~Information on the terminating employee's impression of his or her job;~~

(b) ~~Accurate information on the duties, responsibilities, and working conditions of the position;~~

(c) ~~Upon analysis of the interview, identification of conditions or circumstances which contributed to the separation.~~ **Leave usage for exempt employees.** (a) When using available sick or vacation leave or other paid leave, as appropriate, each exempt employee shall obtain authorization for these absences in the manner prescribed by the employee's appointing authority.

(b) Each exempt employee shall follow the leave request procedures established by the employee's appointing authority for any time away from work. The employee shall obtain prior approval from the employee's supervisor for all time away from work, including periods of less

than half of a day.

(c) Vacation, sick, and shared leave and holiday compensatory time shall be recorded as used only when employees in exempt positions use leave in half-day or full-day increments.

(d) Time away from work for less than half of a day shall not be accumulated over multiple days to total a half-day or full-day increment of vacation, sick, or shared leave or holiday compensatory time. However, time away from work of less than half of a day may be accumulated in the same day to total a half-day increment.

(e) A supervisor may deny the request of an exempt employee for time away from work of less than half of a day or may require the employee to use half of a day or a full day of an appropriate type of leave if the employee has abused the use of leave in less than half-day or full-day increments or if other similar circumstances exist. The employee shall not perform work before the allotted time of leave is used.

(f) Other types of leave used by employees in exempt positions, including jury duty, funeral, job injury, and disaster service leave, shall be reported in quarter-hour increments.

(g) An exempt employee shall not be suspended for a period that is less than the employee's workweek of seven consecutive 24-hour periods or multiples of this workweek, unless the suspension is imposed in good faith for either of the following conditions:

(1) for an infraction of a safety rule of major significance; or

(2) for violation of workplace conduct rules.

(h) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5507; implementing K.S.A. 75-3707, 75-3746, and 75-5507; effective May 1, 1979; amended P-_____.)

March 31, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation
Article 9: Hours; Leaves; Employee-Management Relations

1-9-23. Shared leave. (a)(1) ~~Each~~ Any employee in a classified, regular position or in an unclassified position that is eligible for benefits may be eligible to receive or donate shared leave as provided in this regulation.

(2) Except as provided in paragraph (d)(1)(D), shared leave may be granted to an employee if all of the following conditions are met and if the employee or a family member as defined in K.A.R. 1-9-5(e)(2) meets these the criteria and those of specified in paragraph (b)(1):

(A) The employee or a family member of the employee, as defined in K.A.R. 1-9-5(e)(2), is experiencing a serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition ~~that has caused, or is likely to cause, the employee to take leave without pay or terminate employment.~~

(B) The illness, injury, impairment, or condition ~~keeps the employee from performing regular work duties~~ of the employee or the family member has caused, or is likely to cause the employee to take leave without pay or terminate employment.

(C) The illness, injury, impairment, or condition of the employee or the family member keeps the employee from performing regular work duties.

(b)(1) ~~At~~ Each employee who meets the requirements of paragraph (a)(2) shall be eligible to receive shared leave if both of these conditions are met:

(A) The employee has exhausted all paid leave available for use, including vacation

leave, sick leave, ~~and~~ compensatory time ~~credits~~, holiday compensatory time, and the employee's discretionary holiday.

(B) The employee has at least six continuous months of ~~continuous~~ service, pursuant to K.A.R. 1-2-46.

(2) An employee shall be eligible to donate vacation leave or sick leave to another employee if these conditions are met:

(A) The donation of vacation leave does not cause the accumulated vacation leave balance of the donating employee to be less than 80 hours, unless the employee donates vacation leave at the time of separation from state service.

(B) The donation of sick leave does not cause the accumulated sick leave balance of the donating employee to be less than 480 hours, unless the employee donates sick leave at the time of separation from state service.

(C) If the employee is retiring from state service and receiving compensation for sick leave upon retirement, the donated sick leave consists only of the accumulated sick leave in excess of the applicable minimum accumulation amount required for eligibility for a sick leave payout in accordance with K.S.A. 75-5517, and amendments thereto.

(c)(1)(A) When requesting shared leave, ~~or at any time during the use of shared leave,~~ any employee may an employee shall be required ~~by the appointing authority~~ to provide a ~~physician's statement~~ from a licensed health care provider or other medical evidence necessary to adequately establish that the illness, injury, impairment, or physical or mental condition of the employee or family member is serious, extreme, or life-threatening and keeps the employee from performing regular work duties. If the employee fails to provide the required evidence, the use of shared leave ~~may~~ shall be denied ~~or terminated by the appointing authority.~~

(B) At any time during the use of shared leave, the appointing authority may require the employee to provide a statement from a licensed health care provider or other medical evidence necessary to establish that the illness, injury, impairment, or physical or mental condition of the employee or family member continues to be serious, extreme, or life-threatening or to establish when the employee will be able to return to work. If the employee fails to provide the required evidence, the use of shared leave may be terminated by the appointing authority.

(2)(A) The appointing authority shall determine whether or not ~~the~~ an employee meets the initial eligibility requirements in paragraph (b)(1) and, if applicable, whether or not the employee would be caring for an individual who meets the definition of a family member. ~~The appointing authority shall then determine if the illness or injury meets the conditions set forth in paragraph (a)(2) of this regulation.~~

(B) Shared leave may be denied if ~~it is determined~~ the appointing authority determines that the requesting employee has a history of leave abuse.

(C) Any employee who currently is receiving workers compensation for the illness, injury, impairment, or physical or mental condition that is the basis for the shared leave request or has submitted an application to the division of workers compensation for this illness, injury, impairment, or condition shall not be eligible to receive shared leave.

(d)(1)(A) A shared leave committee shall be established and coordinated by the director. The shared leave committee shall consist of three current employees in the executive branch who, in the director's judgment, have experience in making determinations regarding leave and who will be fair and impartial in discharging their responsibilities.

(B) Except as provided by paragraph (d)(2) below, once the appointing authority determines that an employee meets the eligibility requirements set out in paragraph (c)(2) above,

the shared leave committee shall determine whether or not the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in paragraph (a)(2) of this regulation.

~~(D)~~(C) If the shared leave committee determines that the illness, injury, impairment, or physical or mental condition meets the requirements of paragraph (a)(2), the appointing authority may shall grant all or a portion of the time requested.

(D) An appointing authority may approve an employee's request for shared leave regardless of the determination of the shared leave committee if the appointing authority determines that such a decision would be in the best interests of the state. Before approving the request, the appointing authority shall consult with the director about the factors that the appointing authority is relying upon in making the determination that approval of the shared leave is in the best interests of the state.

(2) If the appointing authority is an elected official, the appointing authority may determine whether or not the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in paragraph (a)(2) or may submit the shared leave request to the shared leave committee for determination as provided in paragraph (d)(1).

~~The decision by the appointing authority to approve or deny the request shall be final and not subject to appeal to the civil service board.~~

~~(d)~~(e) Employees shall not be notified of the need for shared leave donations until the request for shared leave has been approved by the appointing authority as provided in subsection (d). No employee shall be coerced, threatened, or intimidated, or financially induced into donating leave or financially induced to donate leave for purposes of the shared leave program.

(f) The records of all shared leave donations shall remain confidential.

~~(e)(g)~~(1) Shared leave may be used only for the duration of the serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition for which it was collected. ~~If an employee is granted shared leave due to the employee's illness or injury, the maximum duration of the shared leave shall be six months from the date the employee began using the shared leave. After six months, if the employee does not meet the conditions for long-term disability payments, shared leave may be extended for up to an additional six months. If the shared leave is granted due to the illness or injury of a family member, the maximum duration of the shared leave shall be 12 months from the date the employee began using the shared leave. Shared leave shall not be transferable to any employee other than the employee for which it was requested and donated.~~ The maximum number of hours of shared leave that may be used by an employee shall be the total hours that the employee would regularly be scheduled to work during a six-month period.

(2) No employee shall be eligible to use shared leave after meeting the eligibility requirements for disability benefits under the Kansas public employees retirement system.

(3) Employees shall use shared leave in accordance with their regular work schedules.

(4) Exempt employees shall use shared leave only in half-day or full-day increments.

~~(2)(h)~~(1) Shared leave may be applied retroactively for a ~~time not to exceed~~ maximum of two pay periods preceding the date the employee signed the shared leave request form. ~~Written notification of each instance in which shared leave is applied retroactively shall be given to the director.~~

~~(3)~~(2) The employee shall no longer be eligible to receive shared leave for a particular occurrence if any of these conditions is met:

(A) The illness, injury, impairment, or condition of the employee or the employee's family member improves so that it is no longer serious, extreme, or life-threatening, and the employee is no longer prevented from performing regular work duties.

(B) The ~~recipient~~ employee terminates or retires.

(C) ~~The family member's illness, injury, impairment, or physical or mental condition is no longer serious, extreme, or life-threatening, and the employee is no longer prevented from performing regular work duties. The employee shall be determined to no longer be prevented from performing regular work duties when the physician states that the employee is able to return~~ returns to work or when the employee has returned to work and works the employee's regular work schedule for at least 20 continuous working days.

~~(4)~~(3) Any unused portion of the shared leave shall be prorated among all donating employees based on the original amount and type of donated leave and returned to those employees within two pay periods of the date on which it is determined that the employee receiving the donated leave is no longer eligible for shared leave. Shared leave shall not be returned to donating employees in increments of less than one full hour or to any person who has left state service.

~~(4)~~(i)(1) Shared leave shall be paid according to the receiving employee's regular rate of pay by the receiving employee's agency. The rate of pay of the donating employee shall not be used in figuring the amount of shared leave the requesting employee receives.

(2) Shared leave shall be donated in full-hour increments.

(j) Any decision to approve or deny a request for shared leave or any other determination regarding the extension or termination of shared leave shall be final and shall not be subject to appeal to the civil service board.

(k) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5549; implementing K.S.A. ~~75-2925~~, 75-3707, 75-3746, and 75-5549; effective, T-1-7-23-92, July 23, 1992; effective Sept. 14, 1992; amended July 26, 1993; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended Dec. 17, 1995; amended May 31, 1996; amended Sept. 18, 1998; amended, T-1-2-17-00, Feb. 17, 2000; amended June 16, 2000; amended P - _____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Revoked Regulation

Article 9: Hours; Leaves; Employee-Management Relations

1-9-27. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 1996 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 31, 1996; amended June 20, 1997; revoked P-_____.)

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Revoked Regulation

Article 9: Hours; Leaves; Employee-Management Relations

1-9-27. ~~Family and medical leave act of 1993 (FMLA).~~ (a) ~~“FMLA” means the family and medical leave act of 1993, 29 U.S.C. 2601 et seq.~~

~~(b)(1) Each eligible employee shall be entitled to 12 workweeks of paid or unpaid leave, as defined in article 9 of these regulations, during any 12-month period beginning with the first day leave was taken.~~

~~(2) An employee shall request leave in accordance with K.A.R. 1-9-3.~~

~~(3)(A) All time away from work that is taken due to circumstances that qualify under the FMLA as defined in subsection (c) shall be approved by the agency and shall count against the employee's 12-work week leave entitlement.~~

~~(B) Each employee shall use all accrued sick leave and vacation leave prior to the use of leave without pay for all leave that meets FMLA criteria.~~

~~(c) An employee who meets the following conditions shall be eligible for leave under the FMLA:~~

~~(1) the employee has been in pay status for any part of a week for at least 52 weeks, including any period of paid or unpaid leave during which other benefits or compensation were provided to the employee by the agency; and~~

~~(2) the employee has worked for the state at least 1,250 hours during the 12-month period immediately before the beginning of the leave designated as FMLA leave.~~

~~(d) Circumstances that qualify under the FMLA shall include the following:~~

~~(1) the birth of the employee's child and the care of the child within the 12 months immediately following birth;~~

~~(2) the placement with the employee of a child for adoption or foster care within the 12 months immediately following placement;~~

~~(3) physical or psychological care due to a serious health condition of any of the following individuals:~~

~~(A) the employee's spouse;~~

~~(B) a child of the employee who meets one of the following criteria:~~

~~(i) the child is under age 18; or~~

~~(ii) the child is age 18 or older and incapable of daily self care because of a mental or physical disability as defined by the Americans with disabilities act, 42 U.S.C. 12101 et seq.; or~~

~~(C) the employee's parent; or~~

~~(4) the employee's own serious health condition that prohibits the employee from performing all or part of the essential functions of the employee's position within the meaning of the Americans with disabilities act.~~

~~(e) For purposes of the FMLA, "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:~~

~~(1) inpatient care; or~~

~~(2) continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care professional shall involve at least one of the following:~~

~~(A) a period of incapacity of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, if it involves either of the following:~~

~~(i) treatment two or more times by a health care provider or a provider of health care services under orders of the health care provider; or~~

~~(ii) at least one treatment by a health care provider that results in a regimen of continuing treatment under the health care provider's supervision;~~

~~(B) any period of incapacity due to pregnancy or for prenatal care;~~

~~(C) any period of incapacity or treatment for incapacity due to one of the following chronic serious health conditions:~~

~~(i) a condition that requires periodic treatment by a health care provider;~~

~~(ii) a condition that continues over an extended period of time; or~~

~~(iii) a condition that causes episodic incapacity rather than a continuing period of incapacity;~~

~~(D) a period of incapacity that is permanent or long term and is due to a condition for which treatment may not be effective; or~~

~~(E) any absence to receive multiple treatments by a health care provider for one of the following:~~

~~(i) restorative surgery after an accident or other injury; or~~

~~(ii) a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of treatment.~~

~~(f)(1) An employee shall receive intermittent leave or a reduced work schedule when medically necessary for the employee's serious health condition or to care for a family member with a serious health condition. An employee may receive intermittent leave or a reduced work schedule for the birth of the employee's child or for the placement of a child with the employee for adoption or foster care.~~

~~(2) The exempt status of an exempt employee shall not be affected if deductions are made from the employee's salary for any hours taken as intermittent leave or a reduced work schedule within a work week.~~

~~(3) The appointing authority may transfer any employee to an available position with equivalent pay and benefits during a period of intermittent leave or a reduced work schedule.~~

~~(4) Any employee returning from intermittent leave or a reduced work schedule shall be returned to the same or equivalent position with equivalent pay, benefits, and terms and conditions of employment, in accordance with K.A.R. 1-9-6.~~

~~(g)(1) The appointing authority may require an employee to provide a certification containing evidence necessary to establish that the employee is entitled to leave under the FMLA. The employee shall be given a written notice of the requirement. The first certification shall be at employee expense. The appointing authority may require a second certification at agency expense when the validity of the first certification is in doubt. A third certification may be required at agency expense when the first and second certifications differ, and the third certification shall be final and binding. Employees shall be allowed at least 15 calendar days to provide the requested certification.~~

~~(2) The agency may require the employee to provide one recertification opinion every 30 days, at employee expense, except that a recertification opinion may be required before the end of 30 days if circumstances described by the previous medical certification have changed significantly or the agency receives information that casts doubt upon the employee's reason for the absence.~~

~~(h) Each agency shall maintain the employee's group health insurance coverage under the same conditions and with the same agency contributions as provided when no leave is taken.~~

~~(i)(1) Each agency shall post a notice that provides information regarding the FMLA in a conspicuous place accessible to employees and applicants.~~

~~(2) Within two business days after the request for leave is submitted by the employee, the agency shall provide the employee with a written notice detailing the specific expectations and obligations of the employee under the FMLA and explaining any consequences of a failure to meet these obligations.~~

~~(3) The appointing authority shall notify the employee in writing of the employee's eligibility for leave under the FMLA within two working days following agency determination.~~

~~(j) The agency's obligations under the FMLA shall cease when the employee gives notice of the employee's intent not to return to work. (Authorized by K.S.A. 75-3706 and K.S.A. 1996 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 31, 1996; amended June 20, 1997; revoked P-_____.)~~

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 10: Guidance and Discipline**

1-10-6. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-2949d and 75-2944; effective, E-82-14, July 1, 1981; effective May 1, 1982; amended Dec. 27, 1993; amended May 31, 1996; amended Sept. 18, 1998; revoked P-_____.)

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 10: Guidance and Discipline**

1-10-6. Dismissal, suspension, or demotion. ~~(a) The dismissal, suspension, or demotion of an employee with permanent status on grounds of deficiencies in work performance shall be in accordance with the provisions of K.S.A. 75-2949 and K.S.A. 75-2949e, and amendments thereto. Subject to the provisions of K.S.A. 75-2949e and amendments thereto, two consecutive performance review ratings of less than satisfactory may be utilized as a basis for dismissal, suspension, or demotion of the employee. However, if for good of the service, the appointing authority can show that the employee was adequately counseled, two unsatisfactory performance reviews shall not be required for dismissal, suspension, or demotion of the employee.~~

~~(b) The dismissal, suspension, or demotion of an employee with permanent status on grounds of personal conduct detrimental to the state service shall be in accordance with the provisions of K.S.A. 75-2949 and K.S.A. 75-2949f, and amendments thereto.~~

~~(c) An exempt employee shall not be suspended for a period that is less than the employee's workweek of seven consecutive 24-hour periods or multiples of this workweek unless the suspension is in good faith for an infraction of a safety rule of major significance. In the case of a suspension for an infraction of a safety rule of major significance, the agency shall request and receive prior written approval of the director.~~

~~(d) When an employee with permanent status appeals a dismissal, suspension, or demotion to the state civil service board, the appeal procedure shall be in accordance with the~~

~~provisions of K.S.A. 75-2929d, and amendments thereto.~~

~~(e) Any probationary employee, other than an employee on probation due to a promotion from a position in which the employee had permanent status, may be dismissed by the appointing authority at any time during the probation period.~~

~~(f) Dismissal, suspension, or demotion of any probationary employee on probation due to a promotion from a position in which the employee had permanent status shall be conducted in accordance with K.S.A. 75-2944(b), and amendments thereto.~~

~~(g) Any trainee employee, other than a trainee employee with previous permanent status, may be dismissed by the appointing authority at any time during the training period. Dismissal, suspension, or demotion of any trainee employee with previous permanent status shall be in accordance with K.S.A. 75-2944(b), and amendments thereto.~~

~~(h) Any temporary employee may be dismissed by the appointing authority at any time.~~
(Authorized by K.S.A. 75-3747; implementing K.S.A. 75-2949d and 75-2944; effective, E-82-14, July 1, 1981; effective May 1, 1982; amended Dec. 27, 1993; amended May 31, 1996; amended Sept. 18, 1998; revoked P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 10: Guidance and Discipline**

1-10-7. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 1996 Supp. 75-3747; implementing K.S.A. 75-2949; effective, E-82-14, July 1, 1981; effective May 1, 1982; amended Oct. 24, 1997; revoked P-_____.)

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 10: Guidance and Discipline**

1-10-7. Relief from duty, or change of duties, of permanent employee, with pay, under certain circumstances. ~~(a) In any situation in which the possibility of proposing dismissal, suspension, or demotion of a permanent employee is indicated but in which the appointing authority needs time to conduct an investigation before proposing such an action, or in a situation in which immediate removal of an employee from the employee's job is needed to avoid disruption of work, or for the protection of persons or property, or for a similar reason, the appointing authority may relieve the employee from duty or change the duties of the employee, pursuant to the provisions of subsections (b) and (c), and keep the employee in pay status.~~

~~(b) If the duties of an employee are changed, the appointing authority shall notify the employee in writing of the date the duties were changed, the manner in which they were changed, the reason for the change, and the expected date for resumption of regular duties or other disposition of the matter. If the change in duties lasts more than 30 days, the appointing authority shall furnish a copy of the notice to the director.~~

~~(c) If an employee is relieved of all duties with pay, the appointing authority, within seven calendar days, shall notify the employee in writing of the date the employee was relieved from duty with pay, the reasons for that action, and the date the employee was returned to regular duties, the date other disposition of the matter was made, the date the employee is expected to be returned to regular duties, or the date by which any other disposition of the matter is expected. A copy of this statement shall be furnished to the director. (Authorized by K.S.A. 1996 Supp. 75-~~

3747; implementing K.S.A. 75-2949; effective, E-82-14, July 1, 1981; effective May 1, 1982;
amended Oct. 24, 1997; revoked P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Revoked Regulation
Article 10: Guidance and Discipline

1-10-10. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999; revoked P-_____.)

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 10: Guidance and Discipline**

1-10-10. ~~Corrective action for violation of the civil service act.~~ (a) ~~If the director or the director's designee conducts an investigation pursuant to subsection (e) of K.S.A. 75-3746, and amendments thereto, and as a result, finds that any employee in the classified service has violated any provision of the Kansas civil service act or any regulations implementing the civil service act, corrective action against the employee may be recommended to the appointing authority of the employee's agency by the director, if the director finds this action to be appropriate and necessary.~~

~~(b) Written notice of the findings on which the director's decision to recommend corrective action is based, as well as the recommended type and severity of the proposed corrective action, shall be provided to the appointing authority by the director. The appointing authority may then proceed with disciplinary action pursuant to existing statutory authority.~~

~~(c) Appropriate law enforcement authorities may be provided by the director with written notice of the results of investigations revealing violations of the civil service act or of any regulations implementing the civil service act, to determine if criminal prosecution should be taken pursuant to K.S.A. 75-2957, and amendments thereto. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective October 1, 1999; revoked P-_____.)~~

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Revoked Regulation
Article 10: Guidance and Discipline

1-10-11. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999; revoked P-_____.)

June 21, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 10: Guidance and Discipline**

~~1-10-11. Corrective action for violations regarding state employee benefits. (a) If the director or director's designee conducts an investigation pursuant to subsection (e) of K.S.A. 75-3746, and amendments thereto, and, as a result, the director finds that any employee in the classified service or unclassified service has violated any provision of any state employee benefits program, including benefits offered under the cafeteria benefits plan, retirement benefits or state workers compensation benefits, or any regulations implementing those programs, corrective action may be recommended to the appointing authority of the employee's agency by the director, if the director finds this action to be appropriate and necessary.~~

~~(b) Written notice of the findings on which the director's decision to recommend corrective action is based, as well as the recommended type and severity of the proposed corrective action, shall be provided to the appointing authority by the director. The appointing authority may then proceed with disciplinary action pursuant to existing statutory authority.~~

~~(c) Appropriate law enforcement authorities may be provided by the director with written notice of the results of investigations revealing violations of the civil service act or of any regulations implementing the civil service act, to determine if criminal prosecution should be taken pursuant to K.S.A. 75-2957, and amendments thereto. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999; revoked P-_____.)~~

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 11: Nondisciplinary Termination**

1-11-1. Resignation. (a) ~~An~~ Each employee wishing to resign in good standing shall file with the appointing authority, at least two weeks before the employee's last day at work, a written resignation stating the date it will become effective and the reasons for leaving. If the employee fails to give the required written notice of resignation; as specified in this subsection, the appointing authority may have a statement concerning this failure inserted in the employee's official personnel record. ~~An agency~~ Any appointing authority may consider the fact that a person did not give the required notice when the person resigned from earlier employment with the state, ~~as to be~~ grounds for refusal to employ that person.

(b) With the approval of the appointing authority, an employee may withdraw a resignation.

(c) An appointing authority may consider ~~as abandonment of the job and a presumed resignation~~ any unauthorized absence from work for a period of five consecutive working days for which the employee does not provide a satisfactory explanation to be abandonment of the job and a presumed resignation. Before terminating an employee for a presumed resignation, the appointing authority shall make a reasonable effort to obtain a satisfactory explanation from the employee, ~~and a summary of the steps taken to try to obtain the explanation from the employee shall be submitted to the director when the presumed resignation is processed. An appointing authority with delegated authority under K.S.A. 75-2938, and amendments thereto, shall not be required to submit a summary to the director.~~

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~2004~~ 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended May 1, 1985; amended May 31, 1996; amended June 7, 2002; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 11: Nondisciplinary Termination**

1-11-3. This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3747; effective May 1, 1979; revoked P-_____.)

July 2, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Revoked Regulation
Article 11: Non Disciplinary Termination**

1-11-3. ~~Death.~~ ~~In case of the death of an employee, the appointing authority shall report to the director the separation of the employee as of the date of death, in the manner as prescribed by the director.~~ (Authorized by K.S.A. 75-3747; effective May 1, 1979; revoked P-
_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 12: Grievances and Appeals**

1-12-1. Grievance procedure. Each ~~agency~~ appointing authority shall establish in writing a grievance procedure for its employees. ~~The director, in cooperation with agency administrators, may establish guidelines for such procedures.~~ The availability of to, or the use of, a grievance procedure by an employee shall not preclude the employee's use of appropriate appeal procedures that are available to the employee in the civil service act or these regulations. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended P-_____.)

March 15, 2005

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

**Proposed Amended Regulation
Article 12: Grievances and Appeals**

1-12-2. Agency appeals. ~~(a) Any state agency appointing authority may appeal to the secretary of administration from any final decisions or final actions~~ decision of the director of personnel services to the secretary of administration by filing a written notice of appeal with the secretary, signed by the ~~head of the agency appointing authority~~, with a copy to the director. ~~Such~~ Each notice of appeal shall state in clear and concise language the final decision ~~or final action~~ of the director that is the subject of the appeal, and the grounds upon which ~~such~~ the appeal is based. ~~Such~~ The notice of appeal shall be delivered to the secretary's office or mailed to the secretary within ~~ten (10)~~ working days ~~after~~ of the date on which the final decision ~~or final action~~ ~~appealed from~~ becomes effective. ~~The secretary shall thereupon set~~ The day and hour for hearing the appeal shall then be set by the secretary. ~~Such~~ The appeal shall be conducted informally, ~~and~~. Both the appellant and the director may be present in person or by counsel, and both may present evidence and argument. ~~The secretary shall make~~ A timely disposition of the appeal ~~and shall furnish the agency and the director~~ shall be made by the secretary. A copy of ~~his or her~~ the secretary's decision shall be provided to the appointing authority and the director by the secretary. The filing of a notice of appeal or the pendency of an appeal shall not suspend the final decision ~~or final action~~ from which the appeal is taken.

~~(b) Any state agency may appeal to the governor from final decisions or final actions of the secretary of administration by filing a written notice of appeal with the governor, signed by the head of the agency, with a copy to the secretary of administration. Such notice of appeal~~

~~shall state in clear and concise language the final decision or final action of the secretary of administration that is the subject of the appeal, and the grounds upon which such appeal is based. Such notice of appeal shall be delivered to the governor's office or mailed to the governor within ten (10) working days after the final decision or final action appealed from becomes effective. The governor shall thereupon set the day and hour for hearing the appeal. Such appeal shall be conducted informally, and both the appellant and the secretary of administration may be present in person or by counsel, and both may present evidence and argument. The governor shall make a timely disposition of the appeal and shall furnish the agency and the secretary a copy of his or her decision. The filing of a notice of appeal or the pendency of an appeal shall not suspend the final decision or final action from which the appeal is taken. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended P-_____.)~~

October 1, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 13: Records, Reports, Research, and Evaluation of Personnel System

1-13-1a. Content ~~and disclosure of information in~~ employees' official personnel records. (a) The official personnel record of each state employee shall include the following information:

(1) ~~documents~~ Records showing the employee's hires, transfers, promotions, demotions, separations, changes of pay rates, leaves of absence, ~~or~~ and any other changes in employment status;

(2) performance reviews, letters of reprimand and letters of rebuttal ~~thereto~~, and letters of commendation;

(3) ~~applications~~ the application for ~~the positions~~ each position for which the employee was hired;

(4) letters of disciplinary action; and

(5) ~~such~~ any other information related to state service that the ~~director of personnel services~~ appointing authority deems appropriate.

(b) ~~The official personnel record of each state employee shall not contain information prohibited by federal law~~ The records specified in subsection (a) may be maintained in paper or electronic form or by using other appropriate media.

(c) The official personnel record of each state employee shall be transferred with the employee if the employee ~~transfers~~ is appointed to a position in another agency.

~~(d) Except as otherwise provided in this regulation and the Kansas open records act, K.S.A. 45-215 et seq., information contained in each state employee's official personnel record shall not be open to public inspection.~~

~~(e) Upon inquiry of any individual, the division or the state agency where an employee is employed shall disclose the following information concerning an employee:~~

- ~~(1) the name of the employee;~~
- ~~(2) the employee's current job title;~~
- ~~(3) the employee's current or prior pay; and~~
- ~~(4) the employee's length of employment with the state.~~

~~(f) Upon inquiry of a prospective employer, the division or the state agency in which an employee is employed may disclose the following additional information concerning an employee:~~

- ~~(1) the name of the employing state agency;~~
- ~~(2) the length of time the employee has served in the employee's current position;~~
- ~~(3) any letters of commendation; and~~
- ~~(4) any documents regarding personal conduct and work performance to the extent consistent with K.S.A. 44-117.~~

~~(g) When an individual from one of the following agencies, in carrying forth the individual's official duties, establishes a need for information contained in an employee's official personnel record, appropriate personnel from those agencies shall be permitted to access the personnel record:~~

- ~~(1) the Kansas department of administration;~~
- ~~(2) the Kansas attorney general's office, including the Kansas bureau of investigation;~~

~~(3) the federal equal employment opportunity commission and Kansas human rights commission;~~

~~(4) the Kansas civil service board;~~

~~(5) legislative post audit;~~

~~(6) the state agency employing that employee; and~~

~~(7) child support enforcement specialists of the Kansas department of social and rehabilitation services.~~

~~(h) Any current or former employee, or an individual or organization authorized in writing by the current or former employee, may review the employee's official personnel record maintained in a state agency or in the division. The request shall be made in writing to the appointing authority or the director, respectively. The agency shall place in the employee's personnel record a copy of the written request and the written authorization from the employee. The review shall be consistent with the conditions established by the appointing authority or the director, respectively, and at a time and place mutually convenient to the parties.~~

~~(i)(1) Upon request to the appointing authority or designee or the director, respectively, the head of any state agency or a designee, having a proper interest and an established need to review the personnel record of an employee in another state agency, may review the employee's official personnel record, including applications for employment and performance reviews, whether the personnel record is maintained in a state agency or in the division.~~

~~(2) Each state agency responding to job-related reference and performance questions from another state agency shall answer the questions in good faith.~~

~~(3) If a prospective employer that is not part of Kansas state government requests information about a current or former state employee as part of a reference check, the response~~

~~of the appointing authority shall comply with K.S.A. 1996 Supp. 44-119a.~~

~~(j) The official personnel record of any specifically named employee shall be made available for inspection in connection with litigation, pursuant to the terms of an order entered by a judge of any federal, state, or municipal court properly having jurisdiction over such litigation.~~
This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~1996~~ 2004 Supp. 75-3747; implementing K.S.A. 75-2950, and K.S.A. 75-3746, ~~and K.S.A. 1996 Supp. 45-224~~; effective May 1, 1983; amended Dec. 27, 1993; amended Dec. 17, 1995; amended May 31, 1996; amended June 20, 1997; amended P-_____.)

September 28, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed New Regulation

Article 13: Records, Reports, Research, and Evaluation of Personnel System

1-13-1b. Disclosure of employee information. (a) Except as otherwise provided in this regulation and the Kansas open records act, K.S.A. 45-215 *et seq.* and amendments thereto, the information contained in each state employee's official personnel record shall not be open to public inspection.

(b) Upon any inquiry, the appointing authority shall disclose the following information concerning any current or former employee:

- (1) The name of the employee;
- (2) the employee's current job title;
- (3) the employee's current or prior pay; and
- (4) the employee's length of employment with the state;
- (5) the name of the employing agency; and
- (6) the length of time the employee has served in the employee's current position.

(c) When appropriate personnel from one of the following agencies, in carrying forth their official duties, establish a need for information contained in an employee's official personnel record, the appropriate personnel from these agencies shall be permitted to access the other employee's personnel record:

- (1) The Kansas department of administration;
- (2) the Kansas attorney general's office, including the Kansas bureau of investigation;

(3) the federal equal employment opportunity commission and the Kansas human rights commission;

(4) the Kansas civil service board;

(5) legislative post audit;

(6) the agency employing that employee; and

(7) employees of the Kansas department of social and rehabilitation services responsible for that agency's child support enforcement activities.

(d) Any current or former employee, or any other individual or an organization if authorized in writing by the current or former employee, may review that employee's official personnel record upon written request to the appointing authority. The appointing authority shall place in the employee's personnel record a copy of the written request and the written authorization from the employee. The review shall be consistent with the conditions established by the appointing authority and at a time and place mutually convenient to the parties.

(e)(1) Any appointing authority with an established need to review the personnel record of an employee in another state agency may, upon request to the appointing authority of the employing agency, review the employee's official personnel record, including applications for employment and performance reviews.

(2) Each appointing authority responding to job-related reference and performance questions from another state agency shall answer the questions in good faith.

(3) If a prospective employer, other than another state agency, requests information about a current or former state employee as part of a reference check, the response of the appointing authority shall be consistent with the requirements of K.S.A. 44-119a, and amendments thereto.

(f) The official personnel record of any specifically named employee shall be made available for inspection in connection with litigation, pursuant to the terms of an order entered by a judge of any federal, state, or municipal court having proper jurisdiction over the litigation.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2950 and 75-3746; effective P-_____.)

July 6, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 14: Layoff Procedures and Alternatives to Layoff

1-14-8. Computation of layoff scores. (a) A layoff score shall be computed by the appointing authority for each ~~permanent~~ employee in the agency who has permanent status and who is in the a class or classes of positions identified for layoff ~~and for each employee in a class of positions or~~ that may be affected by the exercise of bumping rights.

(b) Layoff scores shall be computed according to the formula: $A \times L$, where A and L have the following values:

(1) A = the average performance review rating of the employee, as described in ~~1-14-8 subsection~~ (d); and

(2) L = the length of service, as defined in K.A.R. 1-2-46(a), expressed in months.

Length of service for a retired employee who has returned to work shall be calculated on the same basis as a new hire. The layoff scores shall be prepared in accordance with a uniform score sheet prescribed by the director.

(c) Layoff scores computed by the appointing authority shall be made available for inspection by each employee upon request at, or ~~prior to,~~ before the time the agency gives written notice of a proposed layoff to the director and the secretary pursuant to K.A.R. 1-14-7. Upon request of any employee, the appointing authority ~~or designee~~ shall review the manner in which the employee's score was calculated. Any dispute as to the proper calculation of a layoff score of any employee shall be resolved by the director.

(d) Except as otherwise authorized by this subsection, the performance review ratings

used in computing the layoff score of an employee shall be the most recent ratings for the employee during the last five years up to and including five ratings, if the employee has as many as five ratings. However, a rating resulting from a special performance review that is given for a rating period ending within 90 calendar days of any notice of the layoff to the director shall not be counted. Performance reviews completed for rating periods ending on or after the date the appointing authority notifies the director in writing that a layoff is to occur shall not be considered in computing layoff scores; however, the appointing authority may designate a uniform earlier cutoff date to identify which performance review ratings ~~shall~~ are to be used in computing layoff scores.

(1) ~~Point values shall be assigned to performance reviews as follows:~~ For the purposes of calculating layoff scores in accordance with the formula established in subsection (b), a rating of exceptional shall have a value of five; a rating of satisfactory; shall have a value of three; and a rating of unsatisfactory; shall have a value of zero.

(2) If an employee does not have a total of five performance review ratings for use in computation of a layoff score, the layoff score shall be an average of the ratings that the employee has actually received.

(3) If an employee has ~~not had a~~ no performance review rating ratings that may be used to compute a layoff score, the employee shall be deemed to have been given a single performance review rating of satisfactory, and the value of that rating shall be used to compute a layoff score. New hires and rehires employed on a basis other than reinstatement who are on probation and employees in training classes shall be subject to subsections (e), (f), and (g).

~~(3)~~(4) In case of identical layoff scores, and if some, but not all, of the persons with the same score need to be laid off, preference among ~~such~~ these persons shall be given to any

veteran, any surviving spouse of a veteran, and any orphan of a veteran, in that order. For the purpose of this regulation, the following terms shall be defined as follows:

(A) "Person who served in the armed forces of the United States" means any person who served in the army, navy, air force, or marine corps of the United States in world war I or world war II, and any person who served with the armed forces of the United States during the military, naval, and air operations in Korea, Vietnam, or other places under the flags of the United States and the United Nations or under the flag of the United States alone;

(B) "Veteran" means a any person who ~~has~~ served in the armed forces of the United States and who ~~has been~~ was honorably discharged ~~therefrom~~ or ~~who has been~~ discharged under honorable conditions; from the armed forces.

(C) "Surviving spouse" means the spouse of a person who served in the armed forces of the United States and who died while in the U.S. armed forces, unless the spouse has remarried; and.

(D) "Orphan" means a minor who is the child of a person who served in the armed forces of the United States and who died while serving in the U.S. armed forces.

If further ties remain, a method of breaking the ties shall be established by the secretary that is consistent with agency affirmative action goals and timetables for addressing underutilization of persons in protected groups. If further ties remain, preference in retention shall be given to the person with the greatest length of service as defined in K.A.R. 1-2-46. If a tie still exists, the next preference shall be given to the person with the greatest length of service, as defined in K.A.R. 1-2-46, within that agency. If a tie still exists, the appointing authority shall be responsible for determining an equitable tie-breaking system.

(e) New hires and rehires on probation shall not be granted permanent status on or after

the date the appointing authority has notified the director of a proposed layoff. However, any new hire or rehire on probation in a position for which no employee subject to layoff meets the required selection criteria may be given permanent status. New hires and rehires on probation shall have their probationary period extended until it is certain that no ~~permanent~~ employee with permanent status whose position is to be vacated by layoff or who otherwise would be laid off through the exercise of bumping rights is claiming the ~~probationary~~ position held by the employee with probationary status.

(f) Any employee serving ~~in a~~ probationary status period as a result of one of the following shall be considered ~~as to have~~ permanent status for layoff purposes ~~only~~:

- (1) Promotion ~~from a class in which the~~ of an employee ~~had~~ who has permanent status;
- (2) reallocation of a position ~~from a class in which~~ if the ~~employee had attained~~ incumbent has permanent status; or
- (3) promotion from a classified position ~~after~~ with at least six months of continuous classified service.

(g) Any employee ~~serving~~ who is in training status ~~on~~ in a governor's trainee position, or in any identified training position, ~~for~~ and who has at least six months of continuous ~~employment~~ service shall be considered ~~as to have~~ permanent status for layoff purposes only.

(h) The layoff list shall be based on the order of the layoff scores. The person with the lowest layoff score shall be laid off first. If more than one person is to be laid off, the persons to be laid off shall be selected on the basis of the lowest layoff scores.

(i) This regulation shall be effective on and after ~~December 17, 1995~~ June 5, 2005.
(Authorized by K.S.A. ~~1994~~ 2004 Supp. 75-3747; implementing K.S.A. 75-2943 and 75-2948, as amended by 1995 SB 175, § 12, and K.S.A. 1994 Supp. 75-2943, as amended by 1995 SB 175, §

8; effective May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended
Dec. 27, 1993; amended Dec. 17, 1995; amended P-_____.)

July 6, 2004

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL SERVICES**

Proposed Amended Regulation

Article 14: Layoff Procedures and Alternatives to Layoff

1-14-11. Furlough leave without pay. (a) ~~Whenever~~ If an agency head appointing authority desires to deviate from the ~~standard workday or~~ standard workweek as provided in K.A.R. 1-9-1 in order to implement a furlough plan, the ~~agency~~ appointing authority shall ~~take such action~~ implement the plan in accordance with this regulation.

(b) In accordance with subsection (c) of this regulation, ~~whenever~~ if an appointing authority deems it necessary by reason of shortage of funds, the appointing authority may furlough without pay all employees in the classified service in designated classes, organizational units, geographical areas, or any combination ~~thereof~~ of those groups unless specific funding sources necessitate exceptions. "Furlough" shall be defined as leave without pay for a preset number of hours during each pay period covered by the furlough plan. An employee's social security and retirement contributions shall be affected under a furlough, but all other benefits, including the accrual of vacation and sick leave, shall continue, notwithstanding other regulations to the contrary. A furlough shall not affect the employee's continuous service, length of service, pay increase anniversary date, or eligibility for authorized holiday leave or pay.

(c) At least ~~60~~ 30 calendar days ~~prior to~~ before the date a furlough is to be implemented, the appointing authority shall ~~submit~~ prepare a furlough ~~informational~~ plan ~~to the director~~ specifying the following information:

(1) ~~the classes, organizational units, geographical areas, funding sources, or combinations thereof to be affected~~ The cause of the funding shortage;

~~(2) the criteria used to select the classes, organizational units, geographical areas, funding sources, or combinations thereof to be included in the furlough;~~

~~(3) the number of hours by which the standard workday or work week will be reduced, including separate categories detailing the proposed reduction in hours by standardized increments for exempt and non-exempt employees; and~~

~~(4) any other information requested by the director. the effective date of the furlough and the date on which the furlough is to end;~~

(3) the methods for notifying the affected employees;

(4) the amount of advance notice that will be given to affected employees, which shall not be less than 10 calendar days;

(5) the estimated cost savings;

(6) each class, organizational unit, or geographical area to be affected;

(7) the criteria used to select each class, organizational unit, or geographical area to be included in the furlough;

(8) any exceptions to the furlough plan based on funding sources; and

(9) the number of hours by which the workweek will be reduced, including separate categories detailing the proposed reduction in hours by standardized increments for exempt and nonexempt employees.

~~Under extreme circumstances, the 60-calendar day notice may be waived by the director.~~

~~(d) Each furlough informational plan shall begin and end in the same fiscal year, except as otherwise approved by the director.~~

~~(e) Furlough informational plans recommended by the director for approval shall be submitted to the secretary of administration for the secretary's consideration and approval. Upon~~

~~request of the appointing authority, the director or the secretary's initiative, the secretary of administration may modify, may approve as modified, or may reject any furlough informational plan.~~

~~(f) After approval of a furlough informational plan by the secretary of administration, the appointing authority shall notify employees by posting the plan on the official bulletin boards in the agency. A copy of each furlough plan prepared in accordance with subsection (c) shall be submitted to the director at least 30 days before the date the furlough is to be implemented.~~

~~(g) The furlough informational plan may be modified and re-approved by the secretary as needed.~~

~~(h) To activate a furlough in accordance with an approved furlough informational plan, the appointing authority shall request the secretary of administration's approval in writing.~~

~~(1) The letter requesting activation of the furlough shall include the following information:~~

~~(A) the cause of the funding shortage;~~

~~(B) when the furlough is due to a federal funding shortage, a description of the method which will be used to repay compensation once the federal funding is restored;~~

~~(C) the purpose of the furlough;~~

~~(D) the anticipated starting and ending dates of the furlough;~~

~~(E) the methods for notifying the affected employees;~~

~~(F) the amount of advance notice which will be given to affected employees; and~~

~~(G) the estimated cost savings.~~

~~(2) Unless otherwise requested by the appointing authority and approved by the secretary of administration, the affected employees shall be notified and the furlough shall be implemented within five days of the date that the approval is granted by the secretary of administration.~~

(+) (e) In no case shall this regulation be used as a disciplinary action against an employee.

(f) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. ~~4995~~
75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5514; implementing K.S.A. 75-3707, 75-3746,
and 75-5505; effective, T-88-5, Feb. 11, 1987; effective, T-89-1, May 1, 1988; effective Oct. 1,
1988; amended May 31, 1996; amended P-_____.